

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/STOP PRESS:  
GREATER LONDON AUTHORITY ACT 2007

## **LONDON GOVERNMENT (**

### **STOP PRESS:**

The Greater London Authority Act 2007 makes further provision with respect to the Greater London Authority, amends the Greater London Authority Act 1999, and makes further provision with respect to the functional bodies, within the meaning of that Act, and the Museum of London. The Act received the royal assent on 23 October 2007 and ss 53-55, 58, 59 came into force on that day, and ss 28 and 46 came into force on 23 December 2007. Sections 12-16, 57 (in part) and Sch 2 (in part) came into force on 30 October 2007: SI 2007/3107. Sections 1-16 (so far as not already in force), 17-27, 29, 37, 39, 40-44 (so far as not already in force), 50 (so far as not already in force), 52 (so far as not already in force), 57 (in part), Schs 1, 2 (in part) came into force on 21 January 2008: SI 2008/113. Sections 31-36, 45, 47-49, 51, 57 (in part), Sch 2 (in part) came into force on 6 April 2008: SI 2008/582. Section 30 came into force on 27 June 2008: SI 2008/1372. The remaining provision, s 38, comes into force on a day or days to be appointed.

### ***Part 1 (ss 1-16) General functions of the authority***

Section 1 allows the Greater London Authority to establish and administer a severance pay scheme for the Mayor of London and the members of the London Assembly on ceasing to hold office. By virtue of s 2, the Mayor must have regard to any comments submitted to him by the London Assembly or any of the functional bodies in response to consultation on his strategies, and must give the Assembly a response in writing setting out which of its comments he accepts for implementation in the strategy and, where he has not accepted a comment, giving the reasons why. The Mayor is required to submit his periodic report to the Assembly at least five clear working days before each Assembly meeting: s 3. Section 4, Sch 1 provide for the Assembly to hold confirmation hearings for certain statutory appointments made by the Mayor. The time limit for the Assembly to summon certain categories of people to attend an Assembly meeting for questioning and to produce documents is extended from three to eight years after the end of their period in office or termination of their relationship with the Assembly: s 5. The Assembly must prepare and publish an annual report on its work and achievements during the year: s 6. By virtue of s 7, after consulting the Mayor and the Assembly, the head of the Authority's paid service is to appoint the Authority's staff, except for the head of the Authority's paid service, the Authority's monitoring officer and the Authority's chief finance officer. The head of the Authority's paid service may delegate to a member of staff his functions of making appointments and setting terms and conditions: s 8. The Mayor and Assembly, acting jointly, must appoint the head of the Authority's paid service (s 8), the Authority's monitoring officer (s 9) and the Authority's chief finance officer (s 10). Section 11 makes consequential amendments. Sections 12-15 provide for separate component budget requirements for the Assembly and the Mayor and make detailed provision relating to those component budget requirements. The Deputy Mayor of London must exercise the responsibilities of the Mayor for setting the budget if the Mayor is temporarily unable to act: s 16.

### ***Part 2 (ss 17-19) Transport***

Section 17 provides for the Secretary of State to give consent in writing to the disposal of operational land by Transport for London. The restriction on political representatives being members of Transport for London is removed by s 18. Section 19 prohibits the payment of remuneration and most allowances to Transport for London members, other than chairman or deputy chairman, who are also Assembly members.

### ***Part 3 (s 20) The London Development Agency***

Section 20 removes the prohibition on payments of allowances to any chairman or deputy chairman of the London Development Agency who is also an Assembly member.

### ***Part 4 (ss 21-24) Health***

Section 21 provides for the appointment of the Health Adviser and one or more deputy health advisers to the Authority. Section 22 imposes a duty on the Mayor to prepare and publish a health inequalities strategy containing proposals and policies for promoting the reduction of health inequalities between persons living in London, and empowers the Secretary of State to direct the Mayor to revise the health inequalities strategy. By virtue of s 23, the Authority must have regard to the effect of any proposed exercise of its general power on health inequalities, and must exercise its powers in a way that is best calculated to promote the reduction of health inequalities between persons living in London. The Mayor must have regard to the effect of his strategies or revisions to his strategies on the health of persons living in London: s 24.

### ***Part 5 (ss 25-27) The London Fire and Emergency Planning Authority***

Section 25 enables the Mayor to make two appointments of his own nomination to the London Fire and Emergency Planning Authority which is given the discretion, by virtue of s 26, to pay certain allowances to its chairman or vice-chairman. Section 27 empowers the Mayor to issue directions and guidance to the London Fire and Emergency Planning Authority, having regard to the Fire and Rescue National Framework or fire safety enforcement guidance, and empowers the Secretary of State to direct the Mayor to revoke the directions or revise the guidance if he considers that it conflicts with the Fire and Rescue National Framework or fire safety enforcement guidance.

### ***Part 6 (s 28) Housing***

Section 28 (1) requires the Mayor to prepare and publish a London housing strategy, which is to include a statement of the Mayor's recommendations as to the amount, type and location of new housing which should be provided in London; (2) requires the Mayor to consult the Housing Corporation and bodies which are representative of registered social landlords in preparing the strategy; and (3) confers power on the Secretary of State to give guidance to the Mayor in preparing or revising the strategy, and to give directions to him if any part of the strategy is inconsistent with national housing policy or likely to be detrimental to any region adjoining London.

### ***Part 7 (ss 29-36) Planning***

Section 29 introduces additional procedures relating to consultation on the Mayor's spatial development strategy. Section 30 gives the Mayor a power of intervention in respect of a local planning authority's local development scheme. Section 31 empowers the Mayor to direct that planning applications which are of potential strategic importance in London should be determined by him in place of the local planning authority, and ss 32-34 empower him to agree

planning obligations related to applications which he is to determine under s 31. By virtue of s 35, the applicant and the local planning authority to which a planning application has been made may make oral representations to the Mayor at a representation hearing before he determines an application. Regulations which make provision for the making of a planning contribution may include provision for the making of a planning contribution in circumstances where the Mayor has directed that a planning application should be determined by him in place of the local planning authority: s 36.

### ***Part 8 (ss 37-44) Environmental functions***

Section 37 requires London waste authorities to exercise some of their waste collection and disposal functions in general conformity with the Mayor's municipal waste management strategy. Section 38 establishes the London Waste and Recycling Board, the objectives of which are to promote and encourage the production of less waste, an increase in the proportion of waste which is re-used or recycled and the use of methods of collection, treatment and disposal of waste which are beneficial to the environment; the Board may give financial assistance and provide advice in order to fulfil its objectives. Waste authorities must inform the Mayor if they intend to tender for a waste contract: s 39. The Authority is required to consider the effects that any proposed exercise of its general statutory power would have on climate change, and the consequences of climate change: s 40. Section 41 requires the Mayor, when preparing his strategies, to have regard to climate change and its consequences. By virtue of s 42, the Mayor is required to take action in London to help prevent climate change and to help London to adapt to the actual and expected consequences of climate change, and the Mayor and Assembly are each required to take into account government policies on climate change whenever they exercise their functions. Section 43 requires the Mayor to prepare a London climate change mitigation and energy strategy, which is to contain proposals for the contribution to be made in London towards the mitigation of climate change and the achievement of objectives in national policies relating to energy. The Mayor must prepare and publish an adaptation to climate change strategy for London: s 44.

### ***Part 9 (ss 45-51) Culture, media and sport***

Section 45 transfers from the Prime Minister to the Authority the power to appoint nine of the eighteen members of the Board of Governors of the Museum of London, and s 46 extends from three to four years the maximum period of appointment of the governors. Sections 47 and 48 transfer from the Secretary of State to the Authority certain powers in relation to the Board of Governors. The requirement for reports about the exercise of functions of the Board of Governors to be laid before each House of Parliament is removed by s 49. The Cultural Strategy Group for London must consult specified bodies when proposing revisions to the Cultural Strategy or when consulted by the Mayor if he makes revisions other than those proposed by the Group: s 50. Section 51 requires the Mayor to make appointments to a body of a description prescribed by the Secretary of State as soon as reasonably practicable after receiving a written request from the body.

### ***Part 10 (s 52) Miscellaneous and general***

Section 52 enables the Authority and the functional bodies to arrange for administrative, professional or technical services to be provided for them by any of the others, or to be shared by two or more of them, and enables those bodies to share such functions by establishing joint committees.

### ***Part 11 (ss 53-59) Supplementary provisions***

Section 53 provides that any power conferred on the Secretary of State to make an order is exercisable by statutory instrument. Any directions given under the Act, and any variation or revocation of such directions, must be in writing: s 54. Section 55 contains financial provisions and s 56 makes transitional provision relating to the Mayor's consultation in connection with his new statutory strategies. Section 57, Sch 2, deal with repeals, s 58 provides for interpretation and s 59 deals with short title, citation, commencement and extent.

***Amendments, repeals and revocations***

Subscribers should note that the list below mention repeals and amendments which are or will be effective when the Act is fully in force. Please refer to the top of this summary for details of the in-force dates of the provisions of the Act. This information may also be found in the COMMENCEMENT OF STATUTES table in the Current Service Noter up booklet. Please also note that these lists are not exhaustive.

Specific provisions of a number of Acts are added, amended or repealed. These include: Museum of London Act 1965 ss 1, 3, 9, 14, 15, Schedule; Museum of London Act 1986 ss 3, 5; Town and Country Planning Act 1990 ss 2A-2F, 106-106B; Regional Development Agencies Act 1998 Sch 2; Greater London Authority Act 1999 ss 26A, 30, 41, 42, 42A, 45, 54, 60A, 61, 65A, 67, 72, 73, 85, 127, 127A, 163, 309A-309H, 328A, 328B, 333A-333D, 335, 355, 356-356B, 358, 360, 361A-361E, 376, 377A, 380, 401A, 404, 420, 424, Schs 4, 4A, 6, 7, 10, 28; Planning and Compulsory Purchase Act 2004 ss 15, 46; Railways Act 2005 s 17.

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/1. INTRODUCTION/(1) LONDON GOVERNMENT LEGISLATION/(i) Review of Legislation/1. The special position of London.

## 1. INTRODUCTION

### (1) LONDON GOVERNMENT LEGISLATION

#### (i) Review of Legislation

##### 1. The special position of London.

The importance of London as a national centre, and the great and unusual concentrations of population throughout several centuries around the ancient city were reflected in, and led to the creation of what amounted in some respects to, special codes of legislation and a special system of local administration. Legislation special to London included provisions relating to building<sup>1</sup>, police<sup>2</sup>, streets<sup>3</sup>, public health<sup>4</sup>, rating<sup>5</sup>, London squares<sup>6</sup>, transport<sup>7</sup>, water supply<sup>8</sup> and the system of local government<sup>9</sup>.

In the reorganisations of London government given effect by the London Government Act 1963<sup>10</sup> and the Local Government Act 1985<sup>11</sup> the law relating to local government in Greater London was brought into closer alignment with that applying elsewhere in England<sup>12</sup>. Greater London was excluded from the general reorganisation of local government in England and Wales effected by the Local Government Act 1972<sup>13</sup>. The more recent reorganisation of London government under the Greater London Authority Act 1999<sup>14</sup> created a new type of organisation that has no parallel elsewhere, the Greater London Authority<sup>15</sup> and its four functional bodies<sup>16</sup>. The provisions of the Local Government Act 2000 requiring local authorities to make executive arrangements apply to London borough councils<sup>17</sup>.

During all these legislative developments the ancient constitution of the Corporation of the City of London has largely been preserved, leaving the corporation's organisation unique in many respects, although its functions in most respects are the same as those of local authorities generally<sup>18</sup>.

Although much general legislation applies to London as elsewhere, a consequence of the historical growth of London legislation is that it must never be assumed that any enactment appearing to be of general application necessarily applies to London at all, or applies there in the same way as to the rest of the country.

1 The expansion of London from the sixteenth century onwards gave rise, particularly after the great fire of 1666, to legislation relating to the siting and construction of buildings which has in modern times developed into the code now known as the London Building Acts 1930 to 1982 (see the Greater London Council (General Powers) (No 2) Act 1982 s 3(6)). As to the London Building Acts 1930 to 1982 see **BUILDING**. As to building control generally see **PARA 66 post**; and **BUILDING**.

2 See eg the Metropolitan Police Acts 1829 to 1963; the London Government Act 1963 s 76(2); and **POLICE**. More recent legislation also contains provisions relating to the metropolitan police: see eg the Police Act 1996 ss 5A-5C, 9A-9H (all as added); the Greater London Authority Act 1999 Pt VI (ss 310-327) (as amended); and **POLICE**. As to the development of the law relating to police forces in London see **POLICE** vol 36(1) (2007 Reissue) **PARA 106**. As to the metropolitan police see **POLICE** vol 36(1) (2007 Reissue) **PARA 137**; and as to the City of London police see **POLICE** vol 36(1) (2007 Reissue) **PARA 138**.

3 See eg the Metropolitan Paving Act 1817 (repealed); the Metropolis Management Acts 1855 to 1893 (largely repealed); and **HIGHWAYS, STREETS AND BRIDGES** vol 21 (2004 Reissue) **PARA 817**.

4 See eg the sanitary legislation in the Metropolis Management Acts 1855 to 1893 (repealed); and the Public Health (London) Act 1936 (repealed). As to the application to London of general legislation relating to public health see PARA 66 note 5 post; and **ENVIRONMENTAL QUALITY AND PUBLIC HEALTH** vol 45 (2010) PARA 100.

5 See eg the Valuation (Metropolis) Act 1869 (repealed). As to rating see generally **RATING AND COUNCIL TAX**. London borough councils and the Common Council of the City of London are billing authorities (see PARA 78 post; and **RATING AND COUNCIL TAX** vol 39(1B) (Reissue) PARAS 5, 229); and the Greater London Authority is a major precepting authority (see PARA 232 et seq post; and **RATING AND COUNCIL TAX** vol 39(1B) (Reissue) PARA 1).

6 See eg the Metropolis Management Act 1855 s 239; and PARA 73 note 4 post. As to open spaces in London see PARA 73 post; and **OPEN SPACES AND COUNTRYSIDE** vol 78 (2010) PARA 509.

7 See eg the Metropolitan Public Carriage Act 1869; and **ROAD TRAFFIC** vol 40(3) (2007 Reissue) PARA 1477 et seq. As to transport in London see PARA 256 et seq post.

8 See eg the Metropolis Water Act 1902 s 1, which established the Metropolitan Water Board: see **WATER AND WATERWAYS** vol 100 (2009) PARA 416. As to the replacement of the Board, the subsequent transfer of water supply functions to statutory water undertakers and water supply in the London area see **WATER AND WATERWAYS** vol 100 (2009) PARAS 108, 416.

9 See the legislation superseded by the London Government Act 1939 (repealed) and the London Government Act 1963: see PARAS 2-4 post.

10 See PARAS 4, 8 et seq post.

11 See PARAS 5, 33 post; and **LOCAL GOVERNMENT** vol 69 (2009) PARA 17.

12 As to local government generally see **LOCAL GOVERNMENT** vol 69 (2009) PARA 1 et seq.

13 See the Local Government Act 1972 s 1; and **LOCAL GOVERNMENT** vol 69 (2009) PARA 5. The Local Government Act 1972 repealed much of the London Government Act 1963, but re-enacted with modifications some of its provisions. Many of the general provisions of the Local Government Act 1972 apply (in some cases with modifications) to London: London borough councils are local authorities for the purposes of the Act (see **LOCAL GOVERNMENT** vol 69 (2009) PARA 23), and a number of its provisions apply to the Common Council of the City of London and, in some cases, to the Sub-Treasurer of the Inner Temple and the Under Treasurer of the Middle Temple (see eg s 101(13) (as amended); paras 55, 60 post; and **LOCAL GOVERNMENT** vol 69 (2009) PARAS 23, 370).

14 See PARAS 6, 79 et seq post.

15 As to the Greater London Authority see PARAS 34, 79 et seq post.

16 As to the functional bodies see PARA 213 et seq post.

17 See the Local Government Act 2000 s 48(1); and **LOCAL GOVERNMENT** vol 69 (2009) PARA 23. As to executive arrangements see PARAS 35-37 post; and **LOCAL GOVERNMENT** vol 69 (2009) PARA 303 et seq.

18 As to the Corporation of the City of London see PARA 40 et seq post. As to the livery companies of the City of London see **CORPORATIONS** vol 9(2) (2006 Reissue) PARAS 1305-1313.

## UPDATE

### 1 The special position of London

NOTE 8--As to water supply in London see PARA 500B.

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INTRODUCTION/(1) LONDON GOVERNMENT LEGISLATION/(i) Review of Legislation/2.  
Developments in the nineteenth century.

## **2. Developments in the nineteenth century.**

As urban development took place in the nineteenth century numerous ad hoc bodies of trustees and commissioners were established to provide services which the existing authorities<sup>1</sup> could not provide<sup>2</sup>. In 1856 most of these bodies<sup>3</sup> were abolished, elective vestries<sup>4</sup> and district boards were constituted and the Metropolitan Board of Works was established<sup>5</sup>.

In 1889 the metropolis<sup>6</sup> became the administrative county of London, and the Metropolitan Board of Works was superseded by the London County Council to which were transferred the board's property, functions and liabilities and the administrative functions of quarter sessions<sup>7</sup>. In 1900 the vestries and district boards in the county of London were replaced by 28 metropolitan borough councils<sup>8</sup>. There were thereafter no parish authorities for local government purposes within the administrative county of London.

1 In the early nineteenth century the London system of local government was broadly similar to that of other parts of England. The City of London Corporation functioned within the City of London and exercised influence over certain adjoining areas or 'liberties' outside the city walls. The City of London was geographically in Middlesex and adjoined (across the River Thames) the counties of Kent and Surrey; local government in these counties was carried on by the justices of the peace in quarter sessions and by parish authorities.

2 Eg paving, lighting and sewerage.

3 There were about 300 such bodies, functioning under about 250 local Acts.

4 An 'elective vestry' was any vestry elected under the Metropolis Management Act 1855: London Government Act 1899 s 34 (repealed).

5 Ie by the Metropolis Management Act 1855, the relevant provisions of which have since been repealed. The Act established the Metropolitan Board of Works as a body corporate, the members being elected by the City of London Corporation and by certain vestries and district boards. The vestries and district boards had functions regarding sewers (which were vested in them) and drains, streets and buildings. The Metropolitan Board of Works had functions concerning main sewers (which were vested in the board), supervisory functions in relation to vestries and district boards, and functions in relation to street improvements, the naming of streets, and building lines. The functions of the Metropolitan Commissioners of Sewers ceased. County quarter sessions still retained their administrative functions, eg in relation to lunacy, county bridges and weights and measures.

6 'The metropolis' included the City of London and the parishes and places mentioned in the Metropolis Management Act 1855 Schs (A), (B) and (C) (all repealed): s 250 (repealed). 'The City of London' included all parts then within the jurisdiction of the Commissioners of Sewers for the City of London: s 250 (repealed).

7 Local Government Act 1888 s 40 (repealed).

8 See the London Government Act 1899 s 4(1) (repealed). The powers and duties of vestries in regard to church affairs and church property were not transferred to the metropolitan borough councils, and special provision was made for their vesting: see s 23(1), (2) (repealed). For the metropolitan boroughs see s 1, Sch 1 (repealed).

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### 3. Developments in the early twentieth century.

The law regulating the local government of the administrative county of London was consolidated with amendments in the London Government Act 1939<sup>1</sup>. This Act embodied a code of local government law separate from, although in many ways similar to, that obtaining in the rest of England and Wales under the Local Government Act 1933<sup>2</sup>. The county of London also retained separate and different codes of public health<sup>3</sup> and building law<sup>4</sup>. In addition to these principal enactments there grew up a substantial body of local legislation promoted by the London County Council<sup>5</sup> and the Common Council of the City of London<sup>6</sup> modifying and amplifying the powers of local authorities in London in a variety of ways<sup>7</sup>. Public general Acts relating to the functions of local authorities generally (such as housing<sup>8</sup> and town planning<sup>9</sup>) often included special provisions as to their application to London.

1 The London Government Act 1939 was repealed and superseded by the London Government Act 1963: see PARA 4 post.

2 The Local Government Act 1933 was repealed and superseded by the Local Government Act 1972: see PARA 1 note 13 ante; and **LOCAL GOVERNMENT** vol 69 (2009) PARA 22 et seq.

3 See PARA 1 note 4 ante.

4 See PARA 1 note 1 ante.

5 As to the establishment of the London County Council see PARA 2 ante. As to the London County Council see also PARA 33 post.

6 As to the Common Council of the City of London see PARA 51 et seq post.

7 As to local legislation see PARA 7 post. See also the City of London (Union of Parishes) Act 1907, which united the parishes of the City of London into one for all purposes other than ecclesiastical, charitable or certain tax purposes: see s 5, Schedule (s 5 amended by the Local Law (City of London) Order 1965, SI 1965/508, art 4, Sch 2).

8 As to housing generally see **HOUSING**.

9 As to town planning generally see **TOWN AND COUNTRY PLANNING**.



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Reorganisation under the London Government Act 1963.

#### **4. Reorganisation under the London Government Act 1963.**

The London Government Act 1963<sup>1</sup> created 32 new administrative areas known as London boroughs<sup>2</sup> with new authorities known as London borough councils<sup>3</sup>. As certain functions could be more effectively performed over a wider area, the Act also created a new administrative area known as Greater London<sup>4</sup> with a new authority known as the Greater London Council<sup>5</sup>. The City of London<sup>6</sup> and the Inner and Middle Temples<sup>7</sup> remained as separate local government areas within Greater London.

1 The London Government Act 1963 repealed the London Government Act 1939 and the Public Health (London) Act 1936 and applied the Local Government Act 1933 and the Public Health Act 1936 to London. As to public health in London see PARA 66 post; and **ENVIRONMENTAL QUALITY AND PUBLIC HEALTH** vol 45 (2010) PARA 100.

Any expenses incurred by any minister under the London Government Act 1963 and any increase attributable to the provisions of that Act in the sums payable out of moneys provided by Parliament under any other enactment must be defrayed out of moneys provided by Parliament: s 91(1). Any sums received by any minister under the London Government Act 1963 must be paid into the Exchequer: s 91(2). As to ministerial powers see further PARA 12 post.

2 As to the London boroughs see PARA 30 post.

3 As to London borough councils see PARAS 35-39, 59 et seq post.

4 As to Greater London see PARA 29 post.

5 As to the Greater London Council see also PARAS 5, 33 post.

6 As to the City of London see PARA 31 post.

7 As to the Temples see PARA 32 post.

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Reorganisation under the Local Government Act 1985.

## 5. Reorganisation under the Local Government Act 1985.

The Local Government Act 1985 provided for the abolition of the Greater London Council<sup>1</sup>. Its functions were mainly transferred to London borough councils<sup>2</sup> and the Common Council of the City of London<sup>3</sup>, although some were transferred to other bodies or authorities<sup>4</sup>. The Act also provided for joint authorities<sup>5</sup> and for certain functions to be discharged by joint arrangements<sup>6</sup>. The Act contained miscellaneous supplementary provisions<sup>7</sup>, including a power to make incidental, consequential and transitional provisions<sup>8</sup>.

1 See the Local Government Act 1985 s 1(1). As to the Greater London Council see also PARAS 4 ante, 33 post. The London Residuary Body was established for the purpose of winding up the affairs of the Greater London Council: see Pt VII (ss 57-67) (as amended). As to the residuary bodies established under the Local Government Act 1985 see **LOCAL GOVERNMENT** vol 69 (2009) PARA 17.

The Local Government Act 1985 did not abolish Greater London as an administrative area. As to Greater London see PARA 29 post.

2 As to the London boroughs and their councils see PARAS 30, 35-39, 59 et seq post.

3 As to the Common Council of the City of London see PARA 51 et seq post.

4 Eg functions relating to traffic control systems were transferred to the Secretary of State (see the Local Government Act 1985 s 8, Sch 5 para 10 (as originally enacted)), but have subsequently been transferred to Transport for London (see the Greater London Authority Act 1999 s 275). As to Transport for London see PARAS 218, 269 et seq post.

As to the transfer of functions to London borough councils and other existing authorities see the Local Government Act 1985 Pt II (ss 2-17) (as amended); para 33 post; and **LOCAL GOVERNMENT** vol 69 (2009) PARA 17. Particular provision was made in relation to certain museums and the South Bank: see ss 43-45, 47 (ss 43, 47 as amended).

5 See eg para 217 post. As to joint authorities see **LOCAL GOVERNMENT** vol 69 (2009) PARA 47 et seq.

6 See PARA 61 post.

7 See the Local Government Act 1985 Pt IX (ss 84-106) (as amended); and **LOCAL GOVERNMENT** vol 69 (2009) PARA 17.

8 See *ibid* s 101 (amended by the Housing Act 1988 s 140, Sch 17 Pt I para 37). Numerous miscellaneous orders have been made under the Local Government Act 1985: see eg the Local Government Reorganisation (Property etc) Order 1986, SI 1986/148 (amended by SI 1986/413; SI 1986/564; SI 1986/2293).

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Reorganisation under the Greater London Authority Act 1999.

## 6. Reorganisation under the Greater London Authority Act 1999.

In 1997 proposals were announced for the setting up of a new authority for Greater London, made up of a mayor and an assembly<sup>1</sup>. On 7 May 1998, a referendum was held and the vote was in favour of the proposals<sup>2</sup>.

The Greater London Authority Act 1999 gave effect to the proposals approved by the referendum by establishing the Greater London Authority<sup>3</sup>, comprising a directly elected Mayor of London<sup>4</sup> and the separately elected London Assembly<sup>5</sup>. There are detailed provisions regarding the constitution<sup>6</sup>, functions<sup>7</sup> and finances<sup>8</sup> of the Greater London Authority. The Greater London Authority Act 1999 introduced the four functional bodies<sup>9</sup>, and provision is made in relation to transport<sup>10</sup>, police<sup>11</sup> and fire services<sup>12</sup>. The Greater London Authority Act 1999 also, inter alia, introduces new powers in relation to road user charging<sup>13</sup> and a parking place levy<sup>14</sup>.

The Greater London Authority Act 1999 left the structure of local government established by the Local Government Act 1985<sup>15</sup> largely intact, so that the London borough councils<sup>16</sup> and the Common Council of the City of London<sup>17</sup> continue to exercise local authority functions<sup>18</sup>.

1 See the White Paper *A Mayor and Assembly for London: The Government's Proposals for Modernising the Governance of London* (Cm 3897) (1998).

2 See the Greater London Authority (Referendum) Act 1998. As to the holding of referendums generally see **ELECTIONS AND REFERENDUMS**.

3 As to the Greater London Authority see PARAS 34, 79 et seq post.

4 As to the Mayor of London see PARA 81 post.

5 As to the London Assembly see PARA 82 post.

6 See PARA 79 et seq post.

7 As to the functions of the Greater London Authority see PARA 164 et seq post.

8 As to the finances of the Greater London Authority see PARA 232 et seq post.

9 As to the functional bodies of the Greater London Authority see PARA 213 et seq post.

10 See the Greater London Authority Act 1999 Pt IV (ss 141-303) (as amended); and PARA 256 et seq post.

11 See *ibid* Pt VI (ss 310-327) (as amended); para 216 post; and **POLICE**.

12 See *ibid* Pt VII (ss 328-333); para 217 post; and **FIRE SERVICES**.

13 See *ibid* s 295, Sch 23 (as amended); and PARA 334 et seq post.

14 See *ibid* s 296, Sch 24 (as amended); and PARAS 334-337, 367 et seq post.

15 See PARA 5 ante.

16 As to the London boroughs and their councils see PARAS 30, 35-39, 59 et seq post.

17 As to the Common Council of the City of London see PARA 51 et seq post.

18 See PARA 59 et seq post.



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## 7. Local legislation.

The principal Acts governing local government in London are the surviving parts of the London Government Act 1963, the relevant provisions of the Local Government Act 1972 and the Greater London Authority Act 1999<sup>1</sup>. In addition, most public general Acts relating to local government in England and Wales extend to London, and some contain special provisions for London<sup>2</sup>. However, there are also many local Acts, containing various provisions relating to different aspects of local government in London<sup>3</sup>.

Many Acts promoted by the London County Council<sup>4</sup> and the Greater London Council<sup>5</sup>, together with some local legislation promoted by their statutory predecessors<sup>6</sup>, remain in force. Such Acts may apply throughout Greater London but some provisions apply only in certain areas, and, in general, local legislation only applies to the London borough council or councils whose area or areas comprise those of the authority or authorities to which it formerly applied<sup>7</sup>. These Acts mainly affect the powers of the London borough councils although some extend to the Common Council of the City of London<sup>8</sup>. A number of other local Acts apply to Greater London or parts of it<sup>9</sup>.

Since 1986, local Acts have been promoted on behalf of London local authorities, that is to say, the London borough councils and the Common Council of the City of London<sup>10</sup>.

There are many local Acts applying exclusively to the City of London, and such Acts continue to be promoted by the Corporation of the City of London<sup>11</sup>.

<sup>1</sup> See PARAS 1-6 ante.

<sup>2</sup> As to legislation applying to local authorities generally see **LOCAL GOVERNMENT** vol 69 (2009) PARA 1 et seq. For an example of legislation making special provision in its application to Greater London see the Road Traffic Regulation Act 1984 s 6 (as amended); and **ROAD TRAFFIC** vol 40(2) (2007 Reissue) PARAS 747-750.

<sup>3</sup> Although some local provisions are mentioned where relevant, local legislation is not generally set out in this work.

<sup>4</sup> Acts promoted by the London County Council include the London County Council (General Powers) Act 1892, the London County Council (General Powers) Act 1894, the London County Council (General Powers) Act 1900, the London County Council (General Powers) Act 1903, the London County Council (General Powers) Act 1907, the London County Council (General Powers) Act 1912, the London County Council (General Powers) Act 1920, the London County Council (General Powers) Act 1921, the London County Council (General Powers) Act 1925, the London County Council (General Powers) Act 1929, the London County Council (General Powers) Act 1930, the London County Council (General Powers) Act 1931, the London County Council (General Powers) Act 1932, the London County Council (General Powers) Act 1933, the London County Council (General Powers) Act 1934, the London County Council (General Powers) Act 1935, the London County Council (General Powers) Act 1936, the London County Council (General Powers) Act 1937, the London County Council (General Powers) Act 1938, the London County Council (General Powers) Act 1947, the London County Council (General Powers) Act 1948, the London County Council (General Powers) Act 1949, the London County Council (General Powers) Act 1950, the London County Council (General Powers) Act 1951, the London County Council (General Powers) Act 1953, the London County Council (General Powers) Act 1954, the London County Council (General Powers) Act 1955, the London County Council (General Powers) Act 1956, the London County Council (General Powers) Act 1957, the London County Council (General Powers) Act 1958, the London County Council (General Powers) Act 1959, the London County Council (General Powers) Act 1960, the London County Council (General Powers) Act 1961, the London County Council (General Powers) Act 1962 and the London County Council (General Powers) Act 1963. As to the London County Council see PARAS 2-3 ante, 33 post.

<sup>5</sup> Acts promoted by the Greater London Council include the Greater London Council (General Powers) Act 1966, the Greater London Council (General Powers) Act 1967, the Greater London Council (General Powers) Act

1968, the Greater London Council (General Powers) Act 1969, the Greater London Council (General Powers) Act 1970, the Greater London Council (General Powers) Act 1971, the Greater London Council (General Powers) Act 1972, the Greater London Council (General Powers) Act 1973, the Greater London Council (General Powers) Act 1974, the Greater London Council (General Powers) Act 1975, the Greater London Council (General Powers) Act 1976, the Greater London Council (General Powers) Act 1978, the Greater London Council (General Powers) (No 2) Act 1978, the Greater London Council (General Powers) Act 1979, the Greater London Council (General Powers) Act 1981, the Greater London Council (General Powers) Act 1982, the Greater London Council (General Powers) Act 1983, the Greater London Council (General Powers) Act 1984 and the Greater London Council (General Powers) Act 1986. As to the Greater London Council see PARAS 4-5 ante, 33 post.

6 This legislation is wide-ranging in character but what remains is fragmentary. For the way in which the legislation was revised in pursuance of the London Government Act 1963 see PARA 10 post. A good deal of legislation has survived from the nineteenth century, when local Acts were promoted to enable the Metropolitan Board of Works to carry out particular public works, before local authorities were given wider general powers for such purposes.

7 The result is that there are considerable differences in the local legislation applying to London borough councils in different parts of Greater London.

8 As to the London boroughs and their councils see PARAS 30, 35-39, 59 et seq post; and as to the Common Council of the City of London see PARA 51 et seq post.

9 See eg the Lee Valley Regional Park Act 1966, the Greater London Council (Vauxhall Cross Improvement) Act 1968, the Hounslow Corporation Act 1968, the Havering Corporation Act 1970, the Haringey Corporation Act 1971, the Kensington and Chelsea Corporation Acts 1972 and 1977, and the Thames Barrier and Flood Prevention Act 1972.

10 See the London Local Authorities Act 1990, the London Local Authorities (No 2) Act 1990, the London Local Authorities Act 1991, the London Local Authorities Act 1994, the London Local Authorities Act 1995, the London Local Authorities Act 1996 and the London Local Authorities Act 2000.

11 Acts promoted by the Corporation of the City of London include the City of London (Various Powers) Act 1900, the City of London (Various Powers) Act 1933, the City of London (Various Powers) Act 1952, the City of London (Various Powers) Act 1957, the City of London (Various Powers) Act 1958, the City of London (Various Powers) Act 1959, the City of London (Various Powers) Act 1960, the City of London (Various Powers) Act 1961, the City of London (Various Powers) Act 1962, the City of London (Various Powers) Act 1963, the City of London (Various Powers) Act 1965, the City of London (Various Powers) Act 1967, the City of London (Various Powers) Act 1968, the City of London (Various Powers) Act 1969, the City of London (Various Powers) Act 1970, the City of London (Various Powers) Act 1971, the City of London (Various Powers) Act 1973, the City of London (Various Powers) Act 1977, the City of London (Various Powers) Act 1979, the City of London (Various Powers) Act 1987 and the City of London (Various Powers) Act 1990. As to the Corporation of the City of London see PARA 40 et seq post.

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## **(ii) General Consequential and Transitional Provisions under the London Government Act 1963**

### **8. Adaptation of public general Acts.**

The London Government Act 1963 included many provisions adapting existing local government law to the new structure of local government in Greater London, specifying the authority or authorities by which the functions of local government were to be exercised in the new administrative area and, in some instances, making provisions with regard to those functions peculiar to Greater London<sup>1</sup>.

The London Government Act 1963 included provisions the general effect of which was to confer on the councils of London boroughs<sup>2</sup> as respects their boroughs and on the Common Council of the City of London<sup>3</sup> as respects the City of London the functions then exercisable by the councils of county boroughs<sup>4</sup> as respects their boroughs or by the London County Council<sup>5</sup> as respects the metropolitan boroughs or the City of London<sup>6</sup>. These provisions were subject to any provisions to the contrary effect made by or by any instrument made under that Act or by any other Act passed during the same session as that Act<sup>7</sup>, but did not extend to any enactment contained in an Act passed with respect only to the whole or part of the county of London and were subject to other exceptions<sup>8</sup>.

The London Government Act 1963 contains detailed rules for the adaptation of existing enactments<sup>9</sup>.

1 These provisions have mostly been repealed, amended or consolidated in later enactments. As to local authority functions see PARA 59 et seq post. As to the transfer of property and liabilities see PARA 11 post.

2 As to the London boroughs and their councils see PARAS 30, 35-39, 59 et seq post.

3 As to the Common Council of the City of London see PARA 51 et seq post.

4 As to the abolition of county boroughs see the Local Government Act 1972 s 1(10), (11); and **LOCAL GOVERNMENT** vol 69 (2009) PARA 5.

5 As to the London County Council see PARAS 2-3 ante, 33 post.

6 See the London Government Act 1963 s 4(1) (amended by the Local Government Act 1985 s 102, Sch 17).

7 See the London Government Act 1963 s 4(1) (as amended: see note 6 supra).

8 Ibid s 4(7) (amended by the Parliamentary Constituencies Act 1986 s 8, Sch 4). As to the other exceptions see the London Government Act 1963 s 4(7) (as so amended).

9 See ibid s 4; and see also s 83(1), Sch 17 (as amended). As to the power to make further modifications of enactments by order see PARA 9 post. 'Existing enactment' means an enactment contained in any public general Act passed before the London Government Act 1963 or in any other such Act passed during the same session as that Act: s 4(1). In the London Government Act 1963, except where the context otherwise requires, references to any enactment are to be construed as references to that enactment as amended, extended or applied by or under any other enactment, including any enactment contained in that Act: s 89(2).

The rules contained in the London Government Act 1963 may be summarised as follows:

- 1 (1) where an existing enactment refers to a county borough (or its council) and also, in the same context, to a metropolitan borough (or its council), the latter reference is to be construed as a reference to a London borough (or its council) (s 4(2)(a); see also s 4(3));
- 2 (2) where an existing enactment refers to a county borough (or its council) and also, in the same context, to the London County Council (or to county councils generally), but not to metropolitan borough councils, references to county borough (or their councils) are taken to refer also to a London borough (or its council) and, where the enactment extends to the City of London but does not refer to the Common Council of the City of London, to refer also to the City (or the Common Council) (s 4(2)(b); see also s 4(3));
- 3 (3) where an existing enactment provides that any provision does not apply or refer, or applies or refers only, to the administrative county of London or to that county other than the City or the City and the Temples, it is read as if the provision is not to apply or refer, or is to apply or refer only, to Greater London other than the outer London boroughs, or other than those boroughs and the City, or other than those boroughs, the City and the Temples, as the case may be (s 4(4); see also s 4(5), (6)).

As to the City of London see PARA 31 post; as to the Temples see PARA 32 post; and as to the outer London boroughs see PARA 30 post.



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## 9. Subordinate legislation under the London Government Act 1963.

The London Government Act 1963 conferred extensive powers to make subordinate legislation<sup>1</sup>.

The widest power conferred is the power to make orders<sup>2</sup> containing such incidental, consequential, transitional or supplementary provisions as appear: (1) to be necessary or proper for the general or any particular purposes of the Act or in consequence of any of the provisions of it or for giving full effect to it; or (2) to be necessary or proper in consequence of such of the provisions of any other Act passed in the same session as that Act as apply to, or to any authority in, Greater London or any other areas or authority affected by the general local government provisions of the London Government Act 1963<sup>3</sup>. There is a power for local authorities and other public bodies affected by the alterations of areas or authorities pursuant to that Act, or instruments made under it, to enter into agreements for adjustments in their financial relations<sup>4</sup>.

Other general powers to make subordinate legislation respecting matters arising from the reorganisation effected by the London Government Act 1963 relate to the adaptation of public general Acts<sup>5</sup>, the adaptation and amendment of local statutory provisions<sup>6</sup>, and the transfer and compensation of local authority officers<sup>7</sup>.

1 Any power to make orders, rules or regulations conferred by the London Government Act 1963 is exercisable by statutory instrument: see s 90. The power under any provision of that Act to make an order includes power to make an order varying or revoking any order previously made under the provision: see s 90. Any enabling provisions in the London Government Act 1963 are deemed to be in addition to, and not in derogation of, any powers exercisable by Her Majesty by virtue of her royal prerogative: s 93(5). As to the power to revoke or vary rules, regulations or byelaws see **STATUTES** vol 44(1) (Reissue) PARA 1526.

The total body of subordinate legislation made under the London Government Act 1963 is considerably greater in extent than the Act itself. However, much of it, being of a purely transitional nature, is now spent or obsolete, and much is of very minor importance.

2 Such an order may be made at any time, whether before or after 1 April 1965, and is subject to annulment in pursuance of a resolution of either House of Parliament: see *ibid* s 84(1).

3 *Ibid* s 84(1). The general local government provisions referred to in the text are the provisions of Pt I (ss 1-5) (as amended). As to the provisions that may be included in an order under s 84(1) see s 84(2), (3).

In order to comply with s 84(1), a provision must satisfy two requirements (ie (1) it must indeed be incidental, etc; and (2) it must appear to the minister to be necessary or proper, etc); the first of these two requirements is a justiciable issue, but the second depends on the view of the minister making the order, which can only be challenged on the grounds of bad faith: *Alexandra Park Trustees v Haringey London Borough Council* (1967) 66 LGR 306 at 320.

Nothing in any other provisions of the London Government Act 1963 is to be construed as prejudicing the generality of s 84(1): s 84(1). However, an order may not be made under s 84 (as amended) (or under s 84 as extended by s 87: see PARA 10 post) affecting any Act or instrument applying only to the City of London (with or without the Temples) or to things or persons connected therewith except after consultation with the Common Council of the City of London: s 84(4). As to the Common Council of the City of London see PARA 51 et seq post.

4 See *ibid* s 84(5); the Local Government Act 1972 ss 68, 272(2) (s 68 as amended); and **LOCAL GOVERNMENT** vol 69 (2009) PARA 88.

5 See the London Government Act 1963 s 83(2) (amended by the Local Government Act 1985 s 102, Sch 17; and the Education Reform Act 1988 s 237, Sch 13 Pt I). As to the adaptation of public general Acts see also PARA 8 ante.

6 See the London Government Act 1963 s 87 (as amended); and PARA 10 post.

7 See *ibid* s 85 (amended by the Town and Country Planning Act 1971 s 291, Sch 23; the Local Government Act 1972 s 272(1), Sch 30; the Local Government Act 1985 s 102, Sch 17; and the Planning (Consequential Provisions) Act 1990 s 3, Sch 1 Pt I).

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## 10. Local law.

Local statutory provisions<sup>1</sup> affecting Greater London and certain surrounding areas<sup>2</sup> and not repealed or specifically continued in force by the London Government Act 1963 or orders made under it continued to apply on and after 1 April 1965<sup>3</sup> to, but only to, the areas, things or persons to which or to whom they applied before that date<sup>4</sup> and to have effect subject to any necessary modifications<sup>5</sup>.

There was a power to make orders repealing, modifying, or extending Greater London statutory provisions<sup>6</sup> and applying them to appropriate authorities<sup>7</sup>. Under this power a series of orders were made which repealed many provisions as spent, obsolete, superseded or unnecessary and adjusted much of the remaining local law affecting Greater London to the new structure of local government in that area<sup>8</sup>. General provision was also made by order for the transfer to the new local authorities of the benefit of protective provisions in local Acts and provisions in such Acts requiring the consent of a local authority, for the adaptation of byelaws to the new authorities<sup>9</sup>, for the enforcement and amendment of byelaws notwithstanding the repeal of the enactments under which they were made<sup>10</sup>, for the amendment of compulsory purchase orders by the substitution of a different acquiring authority<sup>11</sup>, and for the construction of references to superseded provisions in local Acts or in instruments made under any Act<sup>12</sup>.

1 'Local statutory provision' means a provision of a local Act (including an Act confirming a provisional order) or a provision of a public general Act passed with respect only to the whole or part of the county of London (as it was before the London Government Act 1963) or a provision of an instrument made under any such local or public general Act or of an instrument in the nature of a local enactment made under any other Act: s 89(1). The instruments here concerned include instruments made under any enactment notwithstanding the repeal of that enactment: see s 87(1)(a). However, the continuation by s 87(1) of an instrument made under any enactment is not to be construed as prejudicing any power to vary or revoke the instrument which is exercisable apart from s 87(1): see s 87(1). As to the continuation of local statutory provisions see the text and notes 4-5 *infra*. As to the continuation of byelaws see the text and notes 9-10 *infra*.

2 The provisions concerned were local statutory provisions in force immediately before 1 April 1965 and not expressly repealed or revoked by the London Government Act 1963, being in each case a provision: (1) applying to any part of the relevant area or to things or persons connected with a part of that area (s 87(8)(a)); or (2) conferring on a local authority abolished by the Act functions the exercise of which is not restricted to a part of Greater London or to things or persons connected with it (s 87(8)(b)); or (3) applying to the urban districts of Potters Bar, Staines or Sunbury-on-Thames or to things or persons connected with one of those districts (s 87(8)(c)). The relevant area was broadly Greater London, although in relation to sewerage and sewage disposal and in relation to land drainage, flood prevention etc it included some parts of certain former county districts: see s 87(9). For these purposes, 'local authority' means the council of a county, county borough, metropolitan borough or county district or the Common Council of the City of London, or any joint committee, joint board, joint authority or other combined body all the members of which were representatives of any such council: s 87(9). 'Functions' includes powers and duties: s 89(1).

3 The date referred to in the text is the date on which the reorganisation under the London Government Act 1963 took effect. As to the reorganisation under that Act see *PARA 4 ante*.

4 *Ibid* s 87(1)(a).

5 *Ibid* s 87(1)(b). These modifications include in particular the substitution, for references to an abolished local authority or its area, of references to the London borough council or London borough which includes that area: see s 87(1)(b)(i).

6 For these purposes, 'Greater London statutory provision' means any statutory provision mentioned in the London Government Act 1963 s 87(8)(a) or s 87(8)(b) (see note 2 *supra*): s 87(9).

7 See *ibid* ss 84(1), 87(2) (s 87(2) repealed).

8 In considering any local enactment affecting what is now Greater London and made before the reorganisation of London government, it is accordingly necessary to see whether it is affected by the relevant local law order, although other provisions may apply to it, eg *ibid* s 87(1) (see the text and notes 1-5 *supra*).

9 Eg byelaws made before 1 April 1965 under an enactment mentioned in the Local Law (Greater London Council and Inner London Boroughs) Order 1965, SI 1965/540, Schs 1, 2 and in force in an area comprised in an inner London borough were continued in force as if made by the authority to which the enactment was applied: see art 9.

10 London Government Order 1965, SI 1965/654, arts 9, 10. See also *PARA 11 post*. As to the revocation or amendment of byelaws etc by the Common Council of the City of London, the Sub-Treasurer of the Inner Temple and the Under Treasurer of the Middle Temple see the London Government Order 1966, SI 1966/1305, art 4.

11 London Government Order 1965, SI 1965/654, art 40.

12 London Government Order 1970, SI 1970/211, art 4.

## **UPDATE**

### **10 Local law**

NOTE 2--As to local laws in relation to flood defence systems in London, see *PARA 500A*.

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## 11. Transfer of property and liabilities.

Particular properties and certain specified types of property belonging immediately before 1 April 1965<sup>1</sup> to the local authorities abolished by the London Government Act 1963 were vested by that Act in the Greater London Council<sup>2</sup> and the London borough councils<sup>3</sup>. Orders made under that Act also included provisions with respect to the transfer, management and custody of other real and personal property and the transfer of rights and liabilities<sup>4</sup>. The general scheme of these provisions was that property held for the purposes of a particular function, together with the rights and liabilities attaching to the owning authority in respect of that property<sup>5</sup>, was transferred on 1 April 1965 to the authorities then exercising the function. Land held for two or more purposes<sup>6</sup> was treated as being held for the purpose for which it was mainly used immediately before that date, as determined by the former owning authority<sup>7</sup>. There were also residual provisions<sup>8</sup>. Byelaws for regulating property transferred by or under the Act were kept in force as if made by the authority to whom the property was transferred<sup>9</sup>.

1 The date on which the reorganisation under the London Government Act 1963 took effect. As to the reorganisation under that Act see PARA 4 ante.

2 As to the Greater London Council see PARAS 4-5 ante, 33 post.

3 See eg the London Government Act 1963 s 23 (amended by the Housing Finance Act 1972 s 108(4), Sch 11 Pt I; and the Local Government Act 1985 ss 16, 102, Sch 8 para 12(2), Sch 17) (housing land); the London Government Act 1963 s 57(2) (repealed) (museums, concert halls etc); s 58(2) (repealed) (parks and open spaces); s 59(1) (repealed) (Green Belt land); and s 81(1) (repealed) (charitable trust land). These provisions transfer property, but not liabilities.

4 See *ibid* s 84(2)(a); and the London Authorities (Property etc) Order 1964, SI 1964/1464. See also eg the London Government (Grants and Rates, etc) Order 1965, SI 1965/97; the London Government (Probation Staff and Property) Order 1965, SI 1965/623, art 9; the London Government Order 1965, SI 1965/654, art 44; and the London Government Order 1966, SI 1966/1305, arts 5-7.

5 The liability of the London County Council for injuries to a child caused by the negligence of its employee at a children's home vested in it was not a liability attaching to the council in respect of that property: *Duncan v Lambeth London Borough Council* [1968] 1 QB 747 at 757, [1968] 1 All ER 84 at 88 per Donaldson J. As to the London County Council see PARAS 2-3 ante, 33 post.

6 'Land' includes land covered by water and any interest or right in, to or over land: London Government Act 1963 s 89(1); London Authorities (Property etc) Order 1964, SI 1964/1464, art 2(2). 'Land held for two or more purposes' means land substantially the whole of which can be said to be held for two or more purposes: *Greater London Council v Croydon London Borough Council* [1971] 2 All ER 906 at 910 per Plowman J.

7 London Authorities (Property etc) Order 1964, SI 1964/1464, art 4(1). The authority exercising a function for which the property was not mainly used was given a right of continued user for that purpose: see art 4(2).

8 See *ibid* art 16 (amended by SI 1965/654). Some liabilities not attaching in respect of particular properties were transferred by the London Authorities (Property etc) Order 1964, SI 1964/1464, art 16 (as amended): see *Duncan v Lambeth London Borough Council* [1968] 1 QB 747, [1968] 1 All ER 84. In general, land held by the London County Council or the Middlesex County Council and no longer required by the council for the purposes for which the land was held, and land held by either council for planning and certain cognate purposes, was initially transferred, with related liabilities, to the Greater London Council, but much of that land was subsequently transferred to London borough councils and other authorities: see the London Authorities (Property etc) Order 1964, SI 1964/1464, art 9 (amended by SI 1965/654).

<sup>9</sup> See the London Authorities (Property etc) Order 1964, SI 1964/1464, art 33, Sch 5 (art 33 amended by SI 1965/97).

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### **(iii) General Consequential and Transitional Provisions under the Greater London Authority Act 1999**

#### **12. Ministerial powers.**

The Greater London Authority Act 1999 confers various powers on Ministers of the Crown<sup>1</sup> and on the Secretary of State<sup>2</sup> to enable them to make consequential and transitional provisions<sup>3</sup>. For example, provision may be made for transfers of property, rights or liabilities<sup>4</sup> and in relation to pensions<sup>5</sup>.

1 For these purposes, 'Minister of the Crown' has the same meaning as in the Ministers of the Crown Act 1975 (see **CONSTITUTIONAL LAW AND HUMAN RIGHTS** vol 8(2) (Reissue) PARA 354): Greater London Authority Act 1999 s 424(1).

2 In any enactment, 'Secretary of State' means one of Her Majesty's principal Secretaries of State: see the Interpretation Act 1978 s 5, Sch 1. Although modern statutes generally refer simply to 'the Secretary of State', in earlier legislation functions relating to local government were generally allocated to specific ministers or government departments. Most of those functions have now devolved to the Secretary of State: see **LOCAL GOVERNMENT** vol 69 (2009) PARA 96.

The office of Secretary of State is a unified office, and in law each Secretary of State is capable of performing the functions of all or any of them: see **CONSTITUTIONAL LAW AND HUMAN RIGHTS** vol 8(2) (Reissue) PARA 355. In practice, functions relating to local government in England mostly belong to the Secretary of State for Transport, Local Government and the Regions.

3 See PARA 14 et seq post. There must be paid out of money provided by Parliament any expenditure incurred by a Minister of the Crown or government department under the Greater London Authority Act 1999 (s 422(a)) and any increase attributable to that Act in the sums payable out of money so provided under any other Act (s 422(b)).

4 See PARA 17 et seq post.

5 See PARA 20 et seq post.

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### **13. Regulations, orders and directions.**

Any power conferred on a Minister of the Crown<sup>1</sup> by the Greater London Authority Act 1999 to make regulations or an order is exercisable by statutory instrument<sup>2</sup>.

Statutory instruments containing an order under certain provisions of the Greater London Authority Act 1999<sup>3</sup> may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament<sup>4</sup> and statutory instruments containing regulations under certain provisions of that Act<sup>5</sup> may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the House of Commons<sup>6</sup>. Statutory instruments containing regulations<sup>7</sup> or orders<sup>8</sup> under certain provisions of the Greater London Authority Act 1999 which are not subject to any requirement that a draft of the instrument be laid before, and approved by a resolution of, each House of Parliament are subject to annulment in pursuance of a resolution of either House of Parliament<sup>9</sup>.

Except to the extent that the Greater London Authority Act 1999 makes provision to the contrary, any power conferred by that Act to make regulations or an order includes power to make different provision for different cases<sup>10</sup>, and to make incidental, consequential, supplemental or transitional provision and savings<sup>11</sup>.

In addition to the power to make orders and regulations under the Greater London Authority Act 1999, there are various powers to make directions<sup>12</sup>. Any direction given under the Greater London Authority Act 1999 must be in writing<sup>13</sup>, and any power conferred by the Act to give a direction includes power to vary or revoke the direction<sup>14</sup>.

1 As to the meaning of 'Minister of the Crown' see PARA 12 note 1 ante.

2 Greater London Authority Act 1999 s 420(2).

3 Ie under *ibid* s 17A(3) (as added and amended) (see PARA 89 post), s 21(1)(b) (see PARA 86 post), s 31 (as amended) (see PARA 176 post), or s 405(1) (see PARA 14 post): see s 420(3) (amended by the Representation of the People Act 2000 s 14(1), (3)). The Greater London Authority Act 1999 s 420(3) (as amended) does not have effect in relation to a statutory instrument containing an order under s 405(1) (see PARA 14 post) making: (1) amendments or repeals in an enactment contained in a local and personal or private Act; (2) amendments or revocations in subordinate legislation which was not subject to affirmative parliamentary procedure; or (3) provision of any description by virtue of s 405(2) (see PARA 14 post) or s 420(1) (see the text to notes 10-11 *infra*) in connection with any such amendments, repeals or revocations, if it would not have effect in relation to that instrument apart from those amendments, repeals or revocations or that provision: s 420(4). For these purposes, the subordinate legislation which is 'subject to affirmative parliamentary procedure' is any subordinate legislation contained in an instrument which was subject to a requirement that a draft of the instrument be laid before, and approved by a resolution of: (a) each House of Parliament; or (b) the House of Commons, or which was not subject to such a requirement by reason only that it re-enacted subordinate legislation, with or without modification: s 420(9). For these purposes, 'subordinate legislation' has the same meaning as in the Interpretation Act 1978 s 21(1) (see **STATUTES** vol 44(1) (Reissue) PARA 1232): Greater London Authority Act 1999 s 424(1). The provisions of s 420(3) (as amended) and s 420(4) also refer to statutory instruments containing an order under s 326(1), but this provision has been repealed.

4 *Ibid* s 420(3) (as amended: see note 3 *supra*).

5 Ie under *ibid* Sch 23 para 16(2) (see PARA 349 post), Sch 24 para 4 (see PARA 368 post), or Sch 24 para 22(2) (see PARA 381 post): see s 420(5).

6 *Ibid* s 420(5).



7 The regulations under: (1) any provision contained in *ibid* Pt III Chs I-IV (ss 81-126) (as amended) (see PARA 232 et seq post) or Pt III Ch VI (ss 136-140) (see PARA 232 et seq post); (2) s 189 (prospectively amended) (see **ROAD TRAFFIC** vol 40(3) (2007 Reissue) PARA 1241); (3) any provision of Pt VIII (ss 334-350) (as amended) (see PARAS 189-195 post); (4) s 396(2) (see PARA 205 post); (5) Sch 17 para 10 (see PARA 415 post); (6) Sch 23 (as amended) (see PARA 334 et seq post), other than provisions specified in s 420(5) (see note 5 supra); (7) Sch 24 (as amended) (see PARAS 334-337, 367 et seq post), other than provisions specified in s 420(5) (see note 5 supra): see s 420(7) (amended by the Transport Act 2000 s 267(8)).

8 The orders under: (1) the Greater London Authority Act 1999 s 3(1), (4) (see PARAS 89-90 post); (2) s 25 (see PARA 131 post); (3) s 63 (see PARA 149 post); (4) s 157 (see PARA 292 post); (5) s 158(4) (see PARA 288 post); (6) s 163 (see PARA 315 post); (7) s 207 (see PARA 287 et seq post); (8) s 235(4) (see PARA 316 et seq post); (9) s 242(10) (as added) (see PARA 397 post); (10) s 395(3) (see PARA 204 post); (11) s 405 (see PARA 14 post); (12) s 406 (see PARA 15 post); (13) s 408 (see PARA 17 post); (14) s 411 (see PARA 20 post); (15) s 412 (see PARA 24 post); (16) s 413 (see PARA 25 post); (17) Sch 12 para 7(3) (see PARA 318 post); (18) Sch 17 para 9(1)(b) (see PARA 416 post); (19) Sch 28 para 1 (see **FIRE SERVICES** vol 18(2) (Reissue) PARA 17): see s 420(8) (amended by the Transport Act 2000 s 161, Sch 11 para 23). The Greater London Authority Act 1999 s 420(8) (as amended) also refers to s 326(1), but this provision has been repealed.

9 *Ibid* s 420(6).

10 *Ibid* s 420(1)(a).

11 *Ibid* s 420(1)(b).

12 See eg *ibid* s 2(5), Sch 1 para 8(3); and PARA 93 note 9 post.

13 *Ibid* s 421(1).

14 *Ibid* s 421(2).

## UPDATE

### 13 Regulations, orders and directions

NOTE 7--Greater London Authority Act 1999 s 420(7) further amended: Concessionary Bus Travel Act 2007 Sch 2 para 9.

NOTE 8--Greater London Authority Act 1999 s 420(8) further amended so as to refer to ss 252E (see PARA 322-333), 356B(1) (see PARA 182A), 376(11) (see PARAS 178, 221), 377A(5); Railways Act 2005 Sch 6 para 4(2); Greater London Authority Act 2007 ss 50(6), 51(3).

Reference in 1999 Act s 420(8) to s 242(10) omitted: 2007 Act Sch 3.

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#### **14. Power to amend Acts and subordinate legislation.**

Any Minister of the Crown<sup>1</sup> may by order make such amendments, repeals or revocations as appear to him to be appropriate in consequence of the Greater London Authority Act 1999, or of any regulations or orders under that Act:

- 1 (1) in any enactment contained in an Act passed before the relevant day<sup>2</sup> or in the session in which that day falls<sup>3</sup>; or
- 2 (2) in any subordinate legislation<sup>4</sup>, including subordinate legislation made under or by virtue of the Greater London Authority Act 1999, made before the relevant day or in the session in which that day falls<sup>5</sup>.

Any power of a Minister of the Crown by order or regulations under Part XII of the Greater London Authority Act 1999<sup>6</sup> to make incidental, consequential, transitional or supplementary provision includes power for any incidental, consequential, transitional or supplementary purposes to:

- 3 (a) apply with or without modifications<sup>7</sup>;
- 4 (b) extend, exclude or amend<sup>8</sup>; or
- 5 (c) repeal or revoke with or without savings<sup>9</sup>,

any such enactment<sup>10</sup>, or any instrument made under any such enactment, or any charter (whenever granted)<sup>11</sup>.

The amendment by the Greater London Authority Act 1999 of any provision is without prejudice to the exercise in relation to that provision of the powers conferred by the provisions described above<sup>12</sup>.

1 As to the meaning of 'Minister of the Crown' see PARA 12 note 1 ante.

2 For these purposes, the 'relevant day' means the earliest day on which the Greater London Authority and the functional bodies are all in being, and London Regional Transport and the Receiver for the Metropolitan Police District have ceased to exist, and any reference to an Act passed before that day includes a reference to the Greater London Authority Act 1999: s 405(4). At the date at which this volume states the law, London Regional Transport continues to exist: see PARAS 269, 271-277 post. As to the Greater London Authority see PARAS 34, 79 et seq post. As to the functional bodies see PARA 213 et seq post. As to the transition from London Regional Transport to Transport for London see PARA 271 et seq post.

3 Ibid s 405(1)(a). As to the orders that have been made under s 405(1) see eg the Greater London Authority (Miscellaneous Amendments) Order 2000, SI 2000/1435; the Greater London Authority Act 1999 (Consequential Amendments of Subordinate Legislation) (Fire etc Authority) Order 2000, SI 2000/1553; the Transport for London (Bus Lanes) Order 2001, SI 2001/690; the Greater London Road Traffic (Various Provisions) Order 2001, SI 2001/1353; and the Greater London Authority (Miscellaneous Amendments) (No 2) Order 2001, SI 2001/3719. Some of the orders made under the Greater London Authority Act 1999 s 405 are local in nature and are therefore not set out in this work. As to the power to make orders generally see PARA 13 ante.

4 As to the meaning of 'subordinate legislation' see PARA 13 note 5 ante.

5 Greater London Authority Act 1999 s 405(1)(b). See note 3 supra.

6    Ibid Pt XII (ss 405-425) (as amended) (supplementary provisions).

7    Ibid s 405(2)(a). The following orders have been made under s 405(2): the Greater London Authority Act 1999 (Consequential and Transitional Provisions) (Police) Order 1999, SI 1999/3272; the Greater London Authority Act 1999 (Transitional and Consequential Finance Provisions) Order 1999, SI 1999/3435; the Greater London Authority (Elections and Acceptance of Office) Order 2000, SI 2000/308; the Greater London Authority Act 1999 (Hackney Carriages and Private Hire Vehicles) (Transitional and Consequential Provisions) Order 2000, SI 2000/412; the Transfer of Undertakings (Protection of Employment) (Greater London Authority) Order 2000, SI 2000/686; the Greater London Authority Act 1999 (Transitional Capital Finance Provisions) Order 2000, SI 2000/862; the London Government (Various Provisions) Order 2000, SI 2000/942; the London Government (Continuity of Employment) Order 2000, SI 2000/1042; the GLA Roads (Supplementary Provisions) Order 2000, SI 2000/1064; the London Development Agency (Transitional Provisions) Order 2000, SI 2000/1174; the Regulation of Bus Services in Greater London (Transitional Provisions) Order 2000, SI 2000/1462; the Metropolitan Police (Capital Finance) Order 2000, SI 2000/1474; the London Transport Users' Committee (Transitional Provisions) Order 2000, SI 2000/1484; the London Regional Transport (Transitional Modifications) Order 2000, SI 2000/1504; the Greater London Highways and Road Traffic (Various Provisions) Order 2000, SI 2000/1547; the Greater London Authority Act 1999 (Consequential Amendments) (Police) Order 2000, SI 2000/1549; the GLA Roads and Side Roads (Transfer of Property etc) Order 2000, SI 2000/1552 (amended by SI 2000/2493; SI 2001/2620); London Cab Order 1934 (Modification) Order 2000, SI 2000/1666; the GLA Roads (Continuity of Orders etc) Order 2000, SI 2000/2615; the Greater London Authority Act 1999 (Commencement No 8 and Consequential Provisions) Order 2000, SI 2000/3145; the London Transport Pension Arrangements Order 2000, SI 2000/3386; and the Greater London Authority (Miscellaneous Amendments) Order 2001, SI 2001/2620. See note 3 *supra*.

8    Greater London Authority Act 1999 s 405(2)(b). See note 7 *supra*.

9    Ibid s 405(2)(c). See note 7 *supra*.

10    Ie any such enactment as is mentioned in *ibid* s 405(1); see the text to notes 1-5 *supra*.

11    Ibid s 405(2). See note 7 *supra*.

12    Ibid s 405(3).

## **UPDATE**

### **14 Power to amend Acts and subordinate legislation**

NOTE 3--See also the London Waste and Recycling Board Order 2008, SI 2008/2038.

NOTE 7--SI 2000/308 revoked: SI 2002/1044. SI 2000/1474 revoked: SI 2004/533. SI 2000/1504 revoked: SI 2003/1615.

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## **15. Transitional and consequential provision.**

A Minister of the Crown<sup>1</sup> may by order<sup>2</sup> make such incidental, consequential, transitional or supplementary provision as appears to him to be necessary or expedient:

- 6 (1) for the general purposes, or any particular purposes, of the Greater London Authority Act 1999<sup>3</sup>;
- 7 (2) in consequence of, or otherwise in connection with, any provision made by or under that Act<sup>4</sup>;
- 8 (3) for giving full effect to that Act<sup>5</sup>; or
- 9 (4) in consequence of such of the provisions of any other Act passed before the relevant day<sup>6</sup>, or in the session in which that day falls, as apply to any area, or any body or person, affected by the Greater London Authority Act 1999<sup>7</sup>.
- 10 The provision that may be made by such an order includes provision:
- 11 (a) for requiring or enabling any body or person by whom any powers will, on a date specified by or under the Greater London Authority Act 1999, become exercisable by virtue of any provision made by or under that Act to take before that date any steps which are necessary or expedient as a preliminary to the exercise of those powers<sup>8</sup>;
- 12 (b) for the making, before any date specified by or under the Greater London Authority Act 1999, of arrangements for securing the satisfactory operation on or after that date of any provision made by or under that Act and for defraying the cost of any such arrangements<sup>9</sup>;
- 13 (c) for authorising or requiring the exercise by or in relation to any body or person before a date specified by or under the Greater London Authority Act 1999, and whether with or without modifications, of any functions under or by virtue of that Act which will become exercisable on or after that date by or in relation to other bodies or persons, and for defraying any costs incurred in connection with any such exercise<sup>10</sup>;
- 14 (d) for requiring any body or person by whom any powers are exercisable before a date specified by or under the Greater London Authority Act 1999 to refrain from exercising those powers on or after that date or to refrain from exercising them as respects a period beginning on or after that date<sup>11</sup>.

1 As to the meaning of 'Minister of the Crown' see PARA 12 note 1 ante.

2 As to the orders that have been made under the Greater London Authority Act 1999 s 406 see the Greater London Authority Act 1999 (Consequential and Transitional Provisions) (Police) Order 1999, SI 1999/3272; the Greater London Authority Act 1999 (Transitional and Consequential Finance Provisions) Order 1999, SI 1999/3435; the Greater London Authority (Elections and Acceptance of Office) Order 2000, SI 2000/308; the Greater London Authority Act 1999 (Hackney Carriages and Private Hire Vehicles) (Transitional and Consequential Provisions) Order 2000, SI 2000/412; the Transfer of Undertakings (Protection of Employment) (Greater London Authority) Order 2000, SI 2000/686; the Greater London Authority Act 1999 (Transitional Capital Finance Provisions) Order 2000, SI 2000/862; the London Government (Various Provisions) Order 2000, SI 2000/942; the London Government (Continuity of Employment) Order 2000, SI 2000/1042; the Transport for London (Preliminary Arrangements) Order 2000, SI 2000/1045; the GLA Roads (Supplementary Provisions) Order 2000, SI 2000/1064; the Greater London Authority Act 1999 (Commencement No 6 and Preliminary Arrangements for the Metropolitan Police Authority) Order 2000, SI 2000/1095; the London Development Agency (Transitional Provisions) Order 2000, SI 2000/1174; the Regulation of Bus Services in Greater London

(Transitional Provisions) Order 2000, SI 2000/1462; the Metropolitan Police (Capital Finance) Order 2000, SI 2000/1474; the London Transport Users' Committee (Transitional Provisions) Order 2000, SI 2000/1484; the London Regional Transport (Transitional Modifications) Order 2000, SI 2000/1504; the Greater London Highways and Road Traffic (Various Provisions) Order 2000, SI 2000/1547; the GLA Roads and Side Roads (Transfer of Property etc) Order 2000, SI 2000/1552 (amended by SI 2000/2493; SI 2001/2620); the London Cab Order 1934 (Modification) Order 2000, SI 2000/1666; the GLA Roads (Continuity of Orders etc) Order 2000, SI 2000/2615; the Greater London Authority Act 1999 (Commencement No 8 and Consequential Provisions) Order 2000, SI 2000/3145; the London Transport Pension Arrangements Order 2000, SI 2000/3386; the Transport for London (Bus Lanes) Order 2001, SI 2001/690; the Greater London Authority (Miscellaneous Amendments) Order 2001, SI 2001/2620; and the Greater London Authority (Miscellaneous Amendments) (No 2) Order 2001, SI 2001/3719. Some of the orders made under the Greater London Authority Act 1999 s 406 are local in nature and are therefore not set out in this work. As to the power to make orders generally see PARA 13 ante.

3 Ibid s 406(1)(a).

4 Ibid s 406(1)(b).

5 Ibid s 406(1)(c).

6 For the meaning of 'relevant day' see PARA 14 note 2 ante; definition applied by ibid s 406(1)(d).

7 Ibid s 406(1)(d).

8 Ibid s 406(2)(a).

9 Ibid s 406(2)(b).

10 Ibid s 406(2)(c).

11 Ibid s 406(2)(d).

## **UPDATE**

### **15 Transitional and consequential provision**

NOTE 2--SI 2000/308 revoked: SI 2002/1044. SI 2000/1474 revoked: SI 2004/533. SI 2000/1504 revoked: SI 2003/1615.

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## **16. Appointments by the Secretary of State.**

Any functions under or by virtue of the Greater London Authority Act 1999 which will become exercisable by a person or body other than the Secretary of State<sup>1</sup> may, before they become so exercisable, be exercised by the Secretary of State for the purpose of appointing such persons as he considers necessary to secure that any provision made by or under that Act operates satisfactorily when it comes into force<sup>2</sup>. The Secretary of State may defray any costs which are incurred in the exercise of these functions<sup>3</sup>. In exercising these functions, the Secretary of State may appoint a person on such terms and conditions, including conditions as to remuneration, as he thinks fit<sup>4</sup>. Any such terms and conditions may include provision to the effect that the person concerned is, or is not, to be or become a member of a particular pension scheme<sup>5</sup>, or is, or is not, to be treated as employed in the civil service of the State<sup>6</sup>.

1 As to the Secretary of State see PARA 12 note 2 ante.

2 Greater London Authority Act 1999 s 407(1).

3 Ibid s 407(2).

4 Ibid s 407(3).

5 Ibid s 407(4)(a).

6 Ibid s 407(4)(b).

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## **17. Transfers of property, rights or liabilities.**

A Minister of the Crown<sup>1</sup> may by order<sup>2</sup> make provision for or in connection with the transfer of certain property, rights or liabilities<sup>3</sup> to:

- 15 (1) the Greater London Authority<sup>4</sup>;
- 16 (2) any functional body<sup>5</sup>;
- 17 (3) any subsidiary<sup>6</sup> of Transport for London<sup>7</sup>;
- 18 (4) London Regional Transport or any subsidiary of London Regional Transport<sup>8</sup>;
- 19 (5) any local authority<sup>9</sup> or the Common Council of the City of London<sup>10</sup>;
- 20 (6) any police authority<sup>11</sup>;
- 21 (7) the London Transport Users' Committee<sup>12</sup>;
- 22 (8) any Minister of the Crown or government department<sup>13</sup>; or
- 23 (9) any body or person, or the holder of any office, established by or under the Greater London Authority Act 1999 and not falling within heads (1) to (8) above<sup>14</sup>.

The property, rights or liabilities that may be transferred are such property, rights or liabilities of the following bodies and persons as the minister may consider appropriate<sup>15</sup>. Those bodies and persons are:

- 24 (a) any Minister of the Crown or government department<sup>16</sup>;
- 25 (b) any London borough council or the Common Council of the City of London<sup>17</sup>;
- 26 (c) London Regional Transport or any subsidiary of London Regional Transport<sup>18</sup>;
- 27 (d) any company<sup>19</sup> all the shares in which are held by a Minister of the Crown<sup>20</sup>;
- 28 (e) the Receiver for the Metropolitan Police District<sup>21</sup>;
- 29 (f) the Metropolitan Police Commissioner<sup>22</sup>;
- 30 (g) the Countryside Agency<sup>23</sup>;
- 31 (h) the Urban Regeneration Agency<sup>24</sup>;
- 32 (i) the Commission for the New Towns<sup>25</sup>; or
- 33 (j) any body or person, or the holder of any office, for whose abolition or dissolution provision is made by or under the Greater London Authority Act 1999 and which does not fall within heads (a) to (i) above<sup>26</sup>.

Such an order may make provision for or in connection with the grant or creation of an estate or interest in, or right over, any land or other property, the grant or creation of any other rights, or the imposition of liabilities, in favour of, or on, any body or person falling within heads (1) to (9) above or any body or person falling within heads (a) to (j) above<sup>27</sup>. Such an order may make provision for transfers to take effect at such time of day as may be specified in the order<sup>28</sup>.

The power to make an order<sup>29</sup> is exercisable: (i) for the general purposes, or any particular purposes, of the Greater London Authority Act 1999<sup>30</sup>; (ii) in consequence of, or otherwise in connection with, any provision made by or under that Act<sup>31</sup>; (iii) for giving full effect to that Act<sup>32</sup>; or (iv) in consequence of such of the provisions of any other Act passed before the relevant day<sup>33</sup>, or in the session in which that day falls, as apply to any area, or any body or person, affected by that Act<sup>34</sup>. This power is also exercisable in relation to a transfer of property, rights or liabilities to the London Development Agency<sup>35</sup> for any purpose for which

such a transfer may be made by a scheme under the Regional Development Agencies Act 1998<sup>36</sup>.

1 As to the meaning of 'Minister of the Crown' see PARA 12 note 1 ante.

2 As to the orders that have been made under the Greater London Authority Act 1999 s 408 see the London Transport Users' Committee (Transitional Provisions) Order 2000, SI 2000/1484; the GLA Roads and Side Roads (Transfer of Property etc) Order 2000, SI 2000/1552 (amended by SI 2000/2493; SI 2001/2620); the GLA Roads and Side Roads (Transfer of Property etc) (Modification) (College Farm, Finchley) Order 2000, SI 2000/2493; and the Greater London Authority (Miscellaneous Amendments) Order 2001, SI 2001/2620. As to the power to make orders generally see PARA 13 ante.

Neither stamp duty nor stamp duty reserve tax is chargeable on, or in respect of, an order under the Greater London Authority Act 1999 s 408 ('a transfer instrument') (s 417(1)(a), (4)(a)) or an instrument or agreement which is certified to the Commissioners of Inland Revenue by a Minister of the Crown as made in pursuance of a transfer instrument (s 417(1)(b)). No instrument or agreement which is certified as mentioned in s 417(1)(b) may be taken to be duly stamped unless it is stamped with the duty to which it would, but for s 417(1)(b), be liable (s 417(2)(a)) or it has, in accordance with the Stamp Act 1891 s 12 (as substituted) (see **STAMP DUTIES AND STAMP DUTY RESERVE TAX** vol 44(1) (Reissue) PARA 1111), been stamped with a particular stamp denoting that it is not chargeable with any duty or that it is duly stamped (Greater London Authority Act 1999 s 417(2)(b)). The Finance Act 1895 s 12 (see **STAMP DUTIES AND STAMP DUTY RESERVE TAX** vol 44(1) (Reissue) PARA 1050) does not operate to require the delivery to the Inland Revenue of a copy of the Greater London Authority Act 1999, or the payment of stamp duty under the Finance Act 1895 s 12 on any copy of the Greater London Authority Act 1999, and does not apply in relation to any instrument on which, by virtue of s 417(1), stamp duty is not chargeable: s 417(3). As to the Commissioners of Inland Revenue see **INCOME TAXATION**.

3 Ibid s 408(1). As to the property, rights or liabilities that may be transferred see the text and notes 15-26 infra.

4 Ibid s 408(2)(a). As to the Greater London Authority see PARAS 34, 79 et seq post.

5 Ibid s 408(2)(b). As to the functional bodies see PARA 213 et seq post.

6 For these purposes, 'subsidiary' has the same meaning as in the Companies Act 1985 s 736 (as substituted) (see **COMPANIES** vol 14 (2009) PARA 25): Greater London Authority Act 1999 s 424(1).

7 Ibid s 408(2)(c). As to Transport for London see PARAS 218, 269 et seq post.

8 Ibid s 408(2)(d). As to the transition from London Regional Transport to Transport for London see PARA 271 et seq post.

9 For the purposes of the Greater London Authority Act 1999, 'local authority' means a county council, a district council, a London borough council or a parish council but, in relation to Wales, means a county council, county borough council or community council: Local Government Act 1972 s 270(1) (definition amended by the Local Government Act 1985 s 102(2), Sch 17; and the Local Government (Wales) Act 1994 ss 1, 66(5), Sch 15 paras 1, 57); definition applied by the Greater London Authority Act 1999 s 424(1). As to local government areas and authorities in England and Wales see **LOCAL GOVERNMENT** vol 69 (2009) PARA 22 et seq. As to the London boroughs and their councils see PARAS 30, 35-39, 59 et seq post.

10 Ibid s 408(2)(e). As to the Common Council of the City of London see PARA 51 et seq post.

11 Ibid s 408(2)(f). The text refers to any police authority established under the Police Act 1996 s 3: see **POLICE** vol 36(1) (2007 Reissue) PARA 139.

12 Greater London Authority Act 1999 s 408(2)(g). As to the London Transport Users' Committee see PARAS 220, 322 et seq post.

13 Ibid s 408(2)(h).

14 Ibid s 408(2)(i).

15 Ibid s 408(1).

16 Ibid s 408(3)(a).

17 Ibid s 408(3)(b).



- 18 Ibid s 408(3)(c).
- 19 'Company' means any body corporate: ibid s 424(1).
- 20 Ibid s 408(3)(d).
- 21 Ibid s 408(3)(e). As to the Receiver for the Metropolitan Police District, and the abolition of this office, see **PARA 14** ante.
- 22 Ibid s 408(3)(f). As to the Metropolitan Police Commissioner see **POLICE** vol 36(1) (2007 Reissue) **PARA 183** et seq.
- 23 See ibid s 408(3)(g); the Development Commission (Transfer of Functions and Miscellaneous Provisions) Order 1999, SI 1999/416, art 4; and the Development Commission (Dissolution) Order 2000, SI 2000/1505, art 3.
- 24 Greater London Authority Act 1999 s 408(3)(h). As to the Urban Regeneration Agency see **TOWN AND COUNTRY PLANNING** vol 4(3) (Reissue) **PARA 1306** et seq.
- 25 Ibid s 408(3)(i). As to the Commission for the New Towns see **TOWN AND COUNTRY PLANNING** vol 46(3) (Reissue) **PARA 1383** et seq.
- 26 Ibid s 408(3)(j).
- 27 Ibid s 408(7). See note 2 supra.
- 28 Ibid s 408(8).
- 29 Ie under ibid s 408(1).
- 30 Ibid s 408(4)(a).
- 31 Ibid s 408(4)(b).
- 32 Ibid s 408(4)(c).
- 33 For the meaning of 'relevant day' see **PARA 14** note 2 ante; definition applied by ibid s 408(4)(d).
- 34 Ibid s 408(4)(d).
- 35 As to the London Development Agency see **PARA 215** post.
- 36 Greater London Authority Act 1999 s 408(5). As to the Regional Development Agencies Act 1998 see **TRADE AND INDUSTRY** vol 97 (2010) **PARA 988** et seq. To the extent that an order under the Greater London Authority Act 1999 s 408(1) makes provision for or in connection with the transfer of property, rights or liabilities to the London Development Agency from the Urban Regeneration Agency, or the Commission for the New Towns, the Regional Development Agencies Act 1998 s 38 (relief from corporation tax: see **TRADE AND INDUSTRY** vol 97 (2010) **PARA 995**) applies in relation to the order as if it were a transfer scheme within the meaning of s 38: Greater London Authority Act 1999 s 408(6).

## UPDATE

### 17 Transfers of property, rights or liabilities

TEXT AND NOTE 23--1999 Act s 408(3)(g) substituted: Natural Environment and Rural Communities Act 2006 Sch 11 Pt 1 para 152.

TEXT AND NOTES 24, 25, 36--1999 Act s 408(3)(h), (i), (6) repealed: Housing and Regeneration Act 2008 Sch 8 para 75, Sch 16.

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## **18. Transfer schemes.**

A Minister of the Crown<sup>1</sup> may make schemes ('Crown schemes')<sup>2</sup> for the transfer of such property, rights or liabilities as he may consider appropriate from the Crown to one or more of the following bodies or persons<sup>3</sup>:

- 34 (1) the Greater London Authority<sup>4</sup>;
- 35 (2) any functional body<sup>5</sup>;
- 36 (3) any subsidiary<sup>6</sup> of Transport for London<sup>7</sup>;
- 37 (4) London Regional Transport or any subsidiary of London Regional Transport<sup>8</sup>;
- 38 (5) any local authority<sup>9</sup> or the Common Council of the City of London<sup>10</sup>;
- 39 (6) any police authority<sup>11</sup>;
- 40 (7) the London Transport Users' Committee<sup>12</sup>;
- 41 (8) any Minister of the Crown or government department<sup>13</sup>; or
- 42 (9) any body or person, or the holder of any office, established by or under the Greater London Authority Act 1999 and not falling within heads (1) to (8) above<sup>14</sup>.

A Minister of the Crown may by directions require:

- 43 (a) any Minister of the Crown or government department<sup>15</sup>;
- 44 (b) any London borough council or the Common Council of the City of London<sup>16</sup>;
- 45 (c) London Regional Transport or any subsidiary of London Regional Transport<sup>17</sup>;
- 46 (d) any company<sup>18</sup> all the shares in which are held by a Minister of the Crown<sup>19</sup>;
- 47 (e) the Receiver for the Metropolitan Police District<sup>20</sup>;
- 48 (f) the Metropolitan Police Commissioner<sup>21</sup>;
- 49 (g) the Countryside Agency<sup>22</sup>;
- 50 (h) the Urban Regeneration Agency<sup>23</sup>;
- 51 (i) the Commission for the New Towns<sup>24</sup>; or
- 52 (j) any body or person, or the holder of any office, for whose abolition or dissolution provision is made by or under the Greater London Authority Act 1999 and which does not fall within heads (a) to (i) above<sup>25</sup>,

to make one or more schemes ('ordinary schemes')<sup>26</sup> for the transfer to a body or person falling within heads (1) to (9) above of such property, rights or liabilities as he may consider appropriate<sup>27</sup>.

The powers to make Crown schemes or ordinary schemes<sup>28</sup> are exercisable: (i) for the general purposes, or any particular purposes, of the Greater London Authority Act 1999<sup>29</sup>; (ii) in consequence of, or otherwise in connection with, any provision made by or under that Act<sup>30</sup>; (iii) for giving full effect to that Act<sup>31</sup>; or (iv) in consequence of such of the provisions of any other Act passed before the relevant day<sup>32</sup>, or in the session in which that day falls, as apply to any area, or any body or person, affected by that Act<sup>33</sup>. These powers are also exercisable in relation to a transfer of property, rights or liabilities to the London Development Agency<sup>34</sup> for any purpose for which such a transfer may be made by a scheme under the Regional Development Agencies Act 1998<sup>35</sup>.

A transfer scheme<sup>36</sup> takes effect in accordance with the provisions of the scheme on such day or days as may be appointed by the scheme<sup>37</sup>, and it may make provision for transfers to take effect at such time of day as may be specified in the scheme<sup>38</sup>.

A transfer scheme may contain incidental, consequential, supplemental or transitional provision and savings<sup>39</sup>, and may make different provision for different purposes<sup>40</sup>.

1 As to the meaning of 'Minister of the Crown' see PARA 12 note 1 ante.

2 For the purposes of the Greater London Authority Act 1999 s 409(9), Sch 31, a 'Crown scheme' means a scheme under s 409(1): Sch 31 para 1.

In addition to transfer provisions, a Crown scheme may contain provision for:

- 4 (1) the creation, in relation to property which the scheme transfers, of an interest in or right over the property in favour of the transferor (Sch 31 para 3(1)(a));
- 5 (2) the creation of any rights or liabilities as between two or more of the successor bodies, or as between one or more of them and the Crown (Sch 31 para 3(1)(b));
- 6 (3) any rights or liabilities specified or described in the scheme to be, or to be to any extent, enforceable by or against two or more of the successor bodies, or by or against one or more of them and the Crown (Sch 31 para 3(1)(c));
- 7 (4) imposing on any two or more of the successor bodies, or on one or more of them and the Crown, an obligation to enter into written agreements with, or execute other instruments in favour of, each other (Sch 31 para 3(1)(d)).

A Crown scheme may also contain provision for the creation in favour of any of the successor bodies of an interest in or right over property retained by the Crown (Sch 31 para 3(2)(a)), and for the creation in favour of any of the successor bodies of an interest in or right over property which the scheme transfers to another of those bodies (Sch 31 para 3(2)(b)). 'Successor bodies' means the bodies or persons falling within s 408(2) (see heads (1)-(9) in the text; and PARA 17 ante): Sch 31 para 1.

Neither stamp duty nor stamp duty reserve tax is chargeable on, or in respect of, a scheme under s 409 ('a transfer instrument') (s 417(1)(a), (4)(a)) or an instrument or agreement which is certified to the Commissioners of Inland Revenue by a Minister of the Crown as made in pursuance of a transfer instrument (s 417(1)(b)). No instrument or agreement which is certified as mentioned in s 417(1)(b) may be taken to be duly stamped unless it is stamped with the duty to which it would, but for s 417(1)(b), be liable (s 417(2)(a)) or it has, in accordance with the Stamp Act 1891 s 12 (as substituted) (see **STAMP DUTIES AND STAMP DUTY RESERVE TAX** vol 44(1) (Reissue) PARA 1111), been stamped with a particular stamp denoting that it is not chargeable with any duty or that it is duly stamped (Greater London Authority Act 1999 s 417(2)(b)). The Finance Act 1895 s 12 (see **STAMP DUTIES AND STAMP DUTY RESERVE TAX** vol 44(1) (Reissue) PARA 1050) does not operate to require the delivery to the Inland Revenue of a copy of the Greater London Authority Act 1999, or the payment of stamp duty under the Finance Act 1895 s 12 on any copy of the Greater London Authority Act 1999, and does not apply in relation to any instrument on which, by virtue of s 417(1), stamp duty is not chargeable: s 417(3). As to the Commissioners of Inland Revenue see **INCOME TAXATION**. As to the meaning of 'Minister of the Crown' see PARA 12 note 1 ante.

3 Ibid s 409(1). A scheme under s 409(1) or s 409(2) (see the text and notes 15-27 infra) may make any provision that may be made by order under s 408(1) (see PARA 17 ante): s 409(6). A scheme under s 409(1) or s 409(2) (see the text and notes 15-27 infra) may also make any provision that may be made by order under s 411(1) (provision of pensions: see PARA 20 post): see s 409(7). Accordingly, the bodies or persons in relation to which provision may be made by virtue of s 409(7) are not restricted to those falling within s 408(2) (see heads (1)-(9) in the text; and PARA 17 ante) or s 408(3) (see heads (a)-(j) in the text; and PARA 17 ante): s 409(8). Numerous schemes have been made under s 409(1) and s 409(2), but are not generally published and are not set out in this work.

4 See ibid ss 408(2)(a), 409(1). As to the Greater London Authority see PARAS 34, 79 et seq post.

5 See ibid ss 408(2)(b), 409(1). As to the functional bodies see PARA 213 et seq post.

6 For these purposes, 'subsidiary' has the same meaning as in the Companies Act 1985 s 736 (as substituted) (see **COMPANIES** vol 14 (2009) PARA 25): Greater London Authority Act 1999 s 424(1).

7 See ibid ss 408(2)(c), 409(1). As to Transport for London see PARAS 218, 269 et seq post.

8 See *ibid* ss 408(2)(d), 409(1). As to the transition from London Regional Transport to Transport for London see *PARA 271 et seq post*.

9 For the meaning of 'local authority' see *PARA 17 note 9 ante*.

10 See the Greater London Authority Act 1999 ss 408(2)(e), 409(1). As to the Common Council of the City of London see *PARA 51 et seq post*.

11 See *ibid* ss 408(2)(f), 409(1). The text refers to any police authority established under the Police Act 1996 s 3: see **POLICE** vol 36(1) (2007 Reissue) *PARA 139*.

12 See the Greater London Authority Act 1999 ss 408(2)(g), 409(1). As to the London Transport Users' Committee see *PARAS 220, 322 et seq post*.

13 See *ibid* ss 408(2)(h), 409(1).

14 See *ibid* ss 408(2)(i), 409(1).

15 See *ibid* ss 408(3)(a), 409(2).

16 See *ibid* ss 408(3)(b), 409(2).

17 *Ibid* ss 408(3)(c), 409(2).

18 For the meaning of 'company' see *PARA 17 note 19 ante*.

19 Greater London Authority Act 1999 ss 408(3)(d), 409(2).

20 See *ibid* ss 408(3)(e), 409(2). As to the Receiver for the Metropolitan Police District, and the abolition of this office, see *PARA 14 ante*.

21 See *ibid* ss 408(3)(f), 409(2). As to the Metropolitan Police Commissioner see **POLICE** vol 36(1) (2007 Reissue) *PARA 183 et seq*.

22 See *ibid* ss 408(3)(g), 409(2); the Development Commission (Transfer of Functions and Miscellaneous Provisions) Order 1999, SI 1999/416, art 4; and the Development Commission (Dissolution) Order 2000, SI 2000/1505, art 3.

23 See the Greater London Authority Act 1999 ss 408(3)(h), 409(2). As to the Urban Regeneration Agency see **TOWN AND COUNTRY PLANNING** vol 46(3) (Reissue) *PARA 1306 et seq*.

24 See *ibid* ss 408(3)(i), 409(2). As to the Commission for the New Towns see **TOWN AND COUNTRY PLANNING** vol 46(3) (Reissue) *PARA 1383 et seq*.

25 See *ibid* ss 408(3)(j), 409(2).

26 For the purposes of *ibid* Sch 31, an 'ordinary scheme' means a scheme under s 409(2): Sch 31 para 1.

Where any of the predecessor bodies is required to make an ordinary scheme, it must submit the scheme to the relevant minister for his approval before such date as he may direct: Sch 31 para 4(1). Where a scheme is so submitted, the relevant minister may approve the scheme either with or without modification: Sch 31 para 4(2). Before giving his approval, the relevant minister must consult:

8 (1) the transferor (Sch 31 para 4(3)(a));

9 (2) such of the successor bodies as have been established and are affected by the scheme (Sch 31 para 4(3)(b)); and

10 (3) if the scheme makes provision with respect to the provision of pensions (ie by virtue of s 409(7): see note 3 *supra*), the trustees or managers, or the administrators, of any existing pension scheme in relation to which provision is made (Sch 31 para 4(3)(c)).

A scheme required to be so submitted does not take effect unless so approved: Sch 31 para 4(4). 'Predecessor bodies' means the bodies or persons falling within s 408(3) (see heads (a)-(j) in the text; and *PARA 17 ante*): Sch 31 para 1. For these purposes, 'the relevant minister', in relation to an ordinary scheme, means the Minister of the Crown who gave the direction under s 409(2) to make the scheme: Sch 31 para 4(5).

A Minister of the Crown who has given a direction under s 409(2) may, after consultation with the transferor and such of the successor bodies as are affected, make an ordinary scheme himself if: (a) he decides not to

approve, with or without modifications, a scheme submitted to him pursuant to the direction before the date specified under Sch 31 para 4(1) for the purpose; or (b) no ordinary scheme is submitted to him pursuant to the direction for approval before that date: Sch 31 para 5(1). However, this does not prevent a Minister of the Crown from approving a scheme submitted to him after the date specified in relation to it under Sch 31 para 4(1): see Sch 31 para 5(2). A scheme so made by a Minister of the Crown is to be treated for all purposes as having been made by the transferor and approved by the minister: Sch 31 para 5(3).

In addition to transfer provisions, an ordinary scheme may contain provision for:

- 11 (i) the creation, in relation to property which the scheme transfers, of an interest in or right over the property in favour of the transferor (Sch 31 para 6(a));
- 12 (ii) the creation in favour of any of the successor bodies of an interest in or right over property retained by the transferor (Sch 31 para 6(b)(i)), or an interest in or right over property which the scheme transfers to another of those bodies (Sch 31 para 6(b)(ii));
- 13 (iii) the creation of any rights or liabilities as between two or more of the successor bodies or as between one or more of those bodies and the transferor (Sch 31 para 6(c));
- 14 (iv) any rights or liabilities specified or described in the scheme to be, or to be to any extent, enforceable by or against two or more of the successor bodies, or by or against one or more of those bodies and the transferor (Sch 31 para 6(d));
- 15 (v) imposing on any two or more of the successor bodies, or on one or more of those bodies and the transferor, an obligation to enter into written agreements with, or execute other instruments in favour of, each other (Sch 31 para 6(e)).

27 Ibid s 409(2). See note 3 supra. As to the giving of directions see PARA 13 ante.

28 Ie under ibid s 409(1) or s 409(2).

29 Ibid s 409(3)(a).

30 Ibid s 409(3)(b).

31 Ibid s 409(3)(c).

32 For the meaning of 'relevant day' see PARA 14 note 2 ante; definition applied by ibid s 409(3)(d).

33 Ibid s 409(3)(d).

34 As to the London Development Agency see PARA 215 post.

35 Greater London Authority Act 1999 s 409(4). As to the Regional Development Agencies Act 1998 see **TRADE AND INDUSTRY** vol 97 (2010) PARA 988 et seq. To the extent that an order or scheme under the Greater London Authority Act 1999 s 409(1) or s 409(2) makes provision for or in connection with the transfer of property, rights or liabilities to the London Development Agency from the Urban Regeneration Agency, or the Commission for the New Towns, the Regional Development Agencies Act 1998 s 38 (relief from corporation tax: see **TRADE AND INDUSTRY** vol 97 (2010) PARA 995) applies in relation to the order as if it were a transfer scheme within the meaning of s 38: Greater London Authority Act 1999 s 409(5).

36 For these purposes, 'transfer scheme' means a Crown scheme or an ordinary scheme: ibid s 409(9), Sch 31 para 1.

37 Ibid Sch 31 para 2(1).

38 Ibid Sch 31 para 2(2).

39 Ibid Sch 31 para 7(1).

40 Ibid Sch 31 para 7(2).

## UPDATE

### 18 Transfer schemes

NOTE 3--A scheme under the 1999 Act s 409(1) or (2) may be made exempt from s 412(3) (see PARA 24): see the Railways and Transport Safety Act 2003 s 114.

NOTE 35--1999 Act s 409(5) repealed: Housing and Regeneration Act 2008 Sch 8 para 76, Sch 16.

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## **19. Contracts of employment.**

The provision that may be made by transfer instrument<sup>1</sup> includes provision for or in connection with the transfer of: (1) rights and liabilities under contracts of employment<sup>2</sup>; or (2) members of police forces and other persons in relation to whom head (1) above does not apply<sup>3</sup>.

Where any rights or liabilities under a contract of employment are transferred by virtue of the Greater London Authority Act 1999<sup>4</sup>, anything done by or in relation to the transferor<sup>5</sup> in respect of the employee before the day on which the transfer takes effect is to be treated on and after that day as done by or in relation to the transferee<sup>6</sup>. For the purposes of Part XI of the Employment Rights Act 1996<sup>7</sup> the employee is not to be regarded as having been dismissed<sup>8</sup> by virtue of the transfer<sup>9</sup>. For the purposes of that Act, the employee's period of employment with the transferor is to count as a period of employment with the transferee, and the change of employment does not break the continuity of the period of employment<sup>10</sup>.

1 For these purposes, 'transfer instrument' means an order under the Greater London Authority Act 1999 s 408 (see PARA 17 ante), or a scheme under s 409 (see PARA 18 ante): s 410(9).

2 Ibid s 410(1)(a). In the application of s 410 to a person employed in the civil service of the State any reference to a contract of employment includes a reference to the terms of that employment (s 410(7)(b)), and any reference to employment includes a reference to employment in that service (s 410(7)(a)).

The London Transport Users' Committee (Transitional Provisions) Order 2000, SI 2000/1484, has been made under the Greater London Authority Act 1999 s 410(1).

3 Ibid s 410(1)(b). See note 2 supra. Where a transfer instrument makes provision for or in connection with a transfer falling within s 410(1)(b), the provision that may be made includes provision for or in connection with applying s 410(3)-(7) (see the text and notes 5-10 infra) (with or without modifications) in relation to or otherwise in connection with the transfer: s 410(8).

4 Ibid s 410(2).

5 Any reference in ibid s 410 to anything made or done by or in relation to the transferor includes a reference to anything which is treated by virtue of any enactment as having been made or done by or in relation to the transferor, and any reference to an employee's period of employment with the transferor must be construed accordingly: s 410(6).

6 Ibid s 410(3).

7 I.e. the Employment Rights Act 1996 Pt XI (ss 135-181) (as amended) (redundancy payments etc): see **EMPLOYMENT** vol 40 (2009) PARA 790 et seq.

8 In the application of the Greater London Authority Act 1999 s 410 to a person employed in the civil service of the State any reference to dismissal includes a reference to the termination of that employment: s 410(7)(c).

9 Ibid s 410(4).

10 Ibid s 410(5).

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Transitional Provisions under the Greater London Authority Act 1999/20. Pensions.

## 20. Pensions.

A Minister of the Crown<sup>1</sup> may by order<sup>2</sup> make provision with respect to the provision of pensions<sup>3</sup> for or in respect of persons who are or have been employees of, or of subsidiaries<sup>4</sup> of:

- 53 (1) any of the successor bodies<sup>5</sup>;
- 54 (2) any of the predecessor bodies<sup>6</sup>; or
- 55 (3) any body or person whose undertaking, or part of whose undertaking, has been transferred by or under any enactment to a body falling within head (2) above<sup>7</sup>.

The provision that may be so made includes provision for or in connection with:

- 56 (a) the establishment of pension schemes<sup>8</sup> or pension funds<sup>9</sup>;
- 57 (b) the administration or management of pension schemes or pension funds<sup>10</sup>;
- 58 (c) enabling persons to participate, or continue to participate, in any pension scheme and requiring their employers to make contributions under that scheme<sup>11</sup>;
- 59 (d) the rates, or the variation of the rates, of contributions to be made under any pension scheme, whether by employees or employers<sup>12</sup>;
- 60 (e) the re-arrangement, amalgamation, simplification or assimilation of pension schemes<sup>13</sup>.

Such an order may make provision for or in connection with:

- 61 (i) the alteration or winding up of any pension scheme or pension fund, whether in whole or in part<sup>14</sup>;
- 62 (ii) the variation of any trust<sup>15</sup>;
- 63 (iii) the transfer of the whole or any part of any pension fund or of any rights<sup>16</sup>, obligations or liabilities under a pension scheme<sup>17</sup>;
- 64 (iv) the persons by whom any function under or relating to the scheme is to be exercisable<sup>18</sup>;
- 65 (v) establishing a body to administer or assist in administering a pension scheme<sup>19</sup>;
- 66 (vi) enabling all or any of the participants in a pension scheme to become instead participants in another pension scheme<sup>20</sup>;
- 67 (vii) empowering the persons responsible for administering a pension scheme to carry out arrangements for the participation in the scheme of a person who has been an employee of, or of a subsidiary of, a body or person falling within head (2) or head (3) above<sup>21</sup>;
- 68 (viii) the amendment of a pension scheme<sup>22</sup>;
- 69 (ix) the manner in which questions arising under the order are to be determined<sup>23</sup>.

An order may amend the trust deed of any pension scheme, the rules of any such scheme, or any other instrument<sup>24</sup> relating to the constitution, management or operation of any such scheme<sup>25</sup>.



An order may also make provision for or in connection with cases where a person who, having pension rights to which such an order relates, becomes (A) the Mayor of London<sup>26</sup> or a member of the London Assembly<sup>27</sup>; (B) a member of a successor body<sup>28</sup>; or (C) a director of a subsidiary of such a body<sup>29</sup>. This includes, in particular, provision for or in connection with treating a person's service as such a member or director as service in the employment of, or of a subsidiary of, such a body<sup>30</sup>, or treating two or more periods of service as continuous<sup>31</sup>.

An order may be made so as to have effect from a date prior to the making of the order<sup>32</sup>, and may only be made after consultation with the trustees or managers, or the administrators, of any pension fund or pension scheme to which the order relates<sup>33</sup>.

In the case of any LRT pension scheme<sup>34</sup>, the provision that may be made by an order includes provision for or in connection with the allocation of assets, rights, liabilities or obligations between different sections of the scheme<sup>35</sup>, and securing that the scheme continues to be approved for the purposes of the relevant enactments<sup>36</sup>, notwithstanding any transfers made by or under the Greater London Authority Act 1999 or any qualifying transaction<sup>37</sup>.

1 As to the meaning of 'Minister of the Crown' see PARA 12 note 1 ante.

2 As to the orders that have been made under the Greater London Authority Act 1999 s 411 see the London Transport Users' Committee (Transitional Provisions) Order 2000, SI 2000/1484; and the London Transport Pension Arrangements Order 2000, SI 2000/3386. As to the power to make orders generally see PARA 13 ante. As to the application of the Greater London Authority Act 1999 s 411 and Sch 32 to LRT welfare schemes see PARA 23 note 4 post.

Neither stamp duty nor stamp duty reserve tax is chargeable on, or in respect of, an order under s 411 (a 'transfer instrument') (s 417(1)(a), (4)(a)) or an instrument or agreement which is certified to the Commissioners of Inland Revenue by a Minister of the Crown as made in pursuance of a transfer instrument (s 417(1)(b)). No instrument or agreement which is certified as mentioned in s 417(1)(b) may be taken to be duly stamped unless it is stamped with the duty to which it would, but for s 417(1)(b), be liable (s 417(2)(a)) or it has, in accordance with the Stamp Act 1891 s 12 (as substituted) (see **STAMP DUTIES AND STAMP DUTY RESERVE TAX** vol 44(1) (Reissue) PARA 1111), been stamped with a particular stamp denoting that it is not chargeable with any duty or that it is duly stamped (Greater London Authority Act 1999 s 417(2)(b)). The Finance Act 1895 s 12 (see **STAMP DUTIES AND STAMP DUTY RESERVE TAX** vol 44(1) (Reissue) PARA 1050) does not operate to require the delivery to the Inland Revenue of a copy of the Greater London Authority Act 1999, or the payment of stamp duty under the Finance Act 1895 s 12 on any copy of the Greater London Authority Act 1999, and does not apply in relation to any instrument on which, by virtue of s 417(1), stamp duty is not chargeable: s 417(3). As to the Commissioners of Inland Revenue see **INCOME TAXATION**.

3 For these purposes, 'pension' means a pension of any kind payable to or in respect of a person and includes a lump sum, allowance or gratuity so payable, and a return of contributions, with or without interest or other addition: *ibid* s 411(11).

4 For these purposes, 'subsidiary' has the same meaning as in the Companies Act 1985 s 736 (as substituted) (see **COMPANIES** vol 14 (2009) PARA 25): Greater London Authority Act 1999 s 424(1).

5 *Ibid* s 411(1)(a). The bodies referred to in the text are any of the bodies or persons falling within s 408(2): see PARA 17 heads (1)-(9) ante.

6 *Ibid* s 411(1)(b). The bodies referred to in the text are any of the bodies or persons falling within s 408(3): see PARA 17 heads (a)-(j) ante. See note 7 *infra*.

7 *Ibid* s 411(1)(c). As to the application of s 411(1)(c) where the body or person falling within s 411(1)(b) (see the text and note 6 *supra*) is London Regional Transport or a subsidiary of London Regional Transport see s 411(10), Sch 32 para 6. As to the transition from London Regional Transport to Transport for London see PARA 271 *et seq* post.

8 For these purposes, 'pension scheme' means an occupational pension scheme, as defined in the Pension Schemes Act 1993 s 1 (see **SOCIAL SECURITY AND PENSIONS** vol 44(2) (Reissue) PARA 741): Greater London Authority Act 1999 s 411(11).

9 *Ibid* s 411(2)(a).

10 *Ibid* s 411(2)(b).

11 Ibid s 411(2)(c).

12 Ibid s 411(2)(d).

13 Ibid s 411(2)(e).

14 Ibid s 411(3)(a).

15 Ibid s 411(3)(b).

16 For these purposes, 'pension rights' includes all forms of right to or eligibility for the present or future payment of a pension to or in respect of a person, and a right of allocation in respect of the present or future payment of a pension: *ibid* s 411(11).

17 Ibid s 411(3)(c).

18 Ibid s 411(3)(d).

19 Ibid s 411(3)(e).

20 Ibid s 411(3)(f). An order under s 411(1) which makes provision by virtue of s 411(3)(f) in relation to persons who are or have been employees of the Metropolitan Police Authority may only be made after consultation with the Metropolitan Police Authority, and with the consent of the Minister for the Civil Service: s 411(9). As to the Metropolitan Police Authority see **POLICE** vol 36(1) (2007 Reissue) PARAS 147-155. As to the Minister for the Civil Service see **CONSTITUTIONAL LAW AND HUMAN RIGHTS** vol 8(2) (Reissue) PARAS 427, 550.

21 Ibid s 411(3)(g).

22 Ibid s 411(3)(h). See note 25 *infra*.

23 Ibid s 411(3)(i).

24 For these purposes, 'instrument' includes an enactment or any subordinate legislation: *ibid* s 411(11). For these purposes, 'subordinate legislation' has the same meaning as in the Interpretation Act 1978 s 21(1) (see **STATUTES** vol 44(1) (Reissue) PARA 1232); Greater London Authority Act 1999 s 424(1).

25 Ibid s 411(4). Any reference in s 411 to the amendment of a pension scheme includes a reference to the amendment of any such trust deed, rules or other instrument: s 411(4).

26 As to the Mayor of London see PARA 81 *post*.

27 Greater London Authority Act 1999 s 411(5)(a). As to the London Assembly see PARA 82 *post*.

28 Ibid s 411(5)(b). The body referred to in the text is a body or person falling within *ibid* s 408(2): see PARA 17 heads (1)-(9) *ante*.

29 Ibid s 411(5)(c).

30 Ibid s 411(6)(a).

31 Ibid s 411(6)(b).

32 Ibid s 411(7).

33 Ibid s 411(8).

34 For these purposes, 'LRT pension scheme' means any occupational pension scheme for the provision of pensions for or in respect of persons with service in the employment of London Regional Transport or a subsidiary of London Regional Transport, whether or not pensions may also be provided under the scheme for or in respect of persons without such service: *ibid* s 411(10), Sch 32 para 1(1). For the purposes of Sch 32, 'occupational pension scheme' has the same meaning as in the Pension Schemes Act 1993 s 1 (see **SOCIAL SECURITY AND PENSIONS** vol 44(2) (Reissue) PARA 741); Greater London Authority Act 1999 Sch 32 para 1(1). 'Employment' means employment under a contract of service or apprenticeship (whether express or implied and, if express, whether oral or in writing) and related expressions are to be construed accordingly: Sch 32 para 1(1). For these purposes, 'subsidiary' has the same meaning as in the Companies Act 1985 s 736 (as substituted) (see **COMPANIES** vol 14 (2009) PARA 25); Greater London Authority Act 1999 s 424(1). As to the application of Sch 32 to LRT welfare schemes see PARA 23 note 4 *post*.

35 Ibid Sch 32 para 2(1)(a).

36 For these purposes, 'the relevant enactments' are: (1) the Income and Corporation Taxes Act 1988 Pt XIV Ch I (ss 590-612) (as amended) (retirement benefit schemes: see **SOCIAL SECURITY AND PENSIONS** vol 44(2) (Reissue) PARA 747 et seq); and (2) the Pension Schemes Act 1993 Pt III (ss 7-68) (as amended; prospectively further amended), so far as relating to occupational pension schemes (see **SOCIAL SECURITY AND PENSIONS** vol 44(2) (Reissue) PARA 880 et seq): Greater London Authority Act 1999 Sch 32 para 2(2).

37 Ibid Sch 32 para 2(1)(b). For these purposes, 'qualifying transaction' means any relevant transaction, within the meaning of Sch 3 para 3 (as amended) (see PARA 21 note 3 post), as a result of which a person is or becomes a protected person for the purposes of Sch 32 para 3 (as amended): Sch 32 para 2(2).

## UPDATE

### 20 Pensions

NOTE 2--Further orders made under the Greater London Authority Act 1999 s 411: see the Warrant Enforcement Staff Pensions Order 2002, SI 2002/1043, and the Metropolitan Police Authority (Civil Staff Pensions) Order 2002, SI 2002/2468.

NOTE 36--Head (1). Certain provisions of the 1988 Act Pt XIV Ch 1 (as amended) are replaced by provisions of the Income Tax (Earnings and Pensions) Act 2003. For destination of replaced provisions, see table, **INCOME TAXATION** vol 23(2) (Reissue) PARA 1900A.

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## **21. Protection of pension arrangements of transferred employees under London Regional Transport pension etc schemes.**

The Secretary of State<sup>1</sup> may by order<sup>2</sup> make provision for the purpose of securing that no protected person<sup>3</sup> (and, accordingly, no person who is or may become entitled to a pension<sup>4</sup> in respect of a protected person) ceases to be overall in materially at least as good a position, as respects pension arrangements, as a result of the relevant transaction by reason of which the protected person is such a person<sup>5</sup>, or any pensions order<sup>6</sup> made in connection with that relevant transaction<sup>7</sup>. The provision that may be so made includes provision for or in connection with the level of funding which is to be maintained in the case of any pension scheme of a prescribed description so far as relating to protected persons<sup>8</sup>. Provision may also be made for the purpose of securing that a protected person has the right:

- 70 (1) for so long as the appropriate conditions<sup>9</sup> are satisfied, to continue to participate as a contributing member<sup>10</sup> in any prescribed LRT pension scheme<sup>11</sup> in which he was participating as such a member immediately before the relevant transaction<sup>12</sup>; and
- 71 (2) for so long as his period of continuous employment is not broken, to participate as a contributing member in a pension scheme under which the benefits to be provided to or in respect of him are overall materially at least as good as those provided under any prescribed LRT pension scheme in which he was participating as a contributing member immediately before the relevant transaction<sup>13</sup>.

Such an order<sup>14</sup> may make provision for orders to cease to have effect in the case of any protected person if he voluntarily withdraws from an occupational pension scheme<sup>15</sup>, or he requests that his pension rights<sup>16</sup> be transferred from an occupational pension scheme, except in such circumstances or to such extent as may be prescribed<sup>17</sup>. Circumstances may be prescribed in which a break in the continuity of a person's period of employment, a person's ceasing to be a person employed in the London underground railway industry, or a person's voluntary withdrawal from an occupational pension scheme, is to be disregarded for prescribed purposes<sup>18</sup>.

1 As to the Secretary of State see PARA 12 note 2 ante.

2 As to the order that has been made under the Greater London Authority Act 1999 s 411(10), Sch 32 para 3 (as amended) see the London Transport Pension Arrangements Order 2000, SI 2000/3386. As to the power to make orders generally see PARA 13 ante. As to the application of the Greater London Authority Act 1999 Sch 32 to LRT welfare schemes see PARA 23 note 4 post.

3 For these purposes, a 'protected person' is a person who, as a result of any prescribed relevant transaction, becomes, or since 20 March 1998 has become, an employee of a private sector company and who, immediately before becoming such an employee, was an employee of London Regional Transport or a subsidiary of London Regional Transport: *ibid* Sch 32 para 3(1). 'Prescribed' means specified in, or determined in accordance with, an order: Sch 32 para 1(1). For these purposes, 'order' means an order made by the Secretary of State under s 411(1) (see PARA 20 ante): Sch 32 para 1(1). For these purposes, 'relevant transaction' means a transfer of shares in a subsidiary of London Regional Transport to a private sector company, or a transfer of rights and liabilities under a contract of employment: Sch 32 para 3(10). As to the

meaning of 'employee' see PARA 20 note 34 ante. For these purposes, 'private sector company' means any company other than a public sector operator, within the meaning of Pt IV Ch VII (see PARA 316 et seq post): Sch 32 para 3(10). For these purposes, 'subsidiary' has the same meaning as in the Companies Act 1985 s 736 (as substituted) (see **COMPANIES** vol 14 (2009) PARA 25): Greater London Authority Act 1999 s 424(1). For the meaning of 'company' see PARA 17 note 19 ante. As to the transition from London Regional Transport to Transport for London see PARA 271 et seq post.

Provisions of the Employment Rights Act 1996 Pt XIV Ch I (ss 210-219) (as amended) (continuous employment: see **EMPLOYMENT** vol 39 (2009) PARA 105 et seq), apply for the purposes of the Greater London Authority Act 1999 Sch 32 para 3 as they apply for the purposes of the Employment Rights Act 1996: Greater London Authority Act 1999 Sch 32 para 3(8).

4 For the meaning of 'pension' see PARA 20 note 3 ante; definition applied by virtue of ibid Sch 32 para 1(2).

5 Ibid Sch 32 para 3(2)(a).

6 For these purposes, 'pensions order' means an order made otherwise than by virtue of ibid Sch 32 para 3 (as amended): Sch 32 para 3(10).

7 Ibid Sch 32 para 3(2)(b).

8 Ibid Sch 32 para 3(5).

9 For these purposes, 'the appropriate conditions' are that the protected person continues to be a person employed in the London underground railway industry (whether or not with the same employer), and that any prescribed conditions with respect to continuity of employment are satisfied in his case: ibid Sch 32 para 3(4). As to the meanings of 'employed', 'employer' and 'employment' see PARA 20 note 34 ante. For these purposes, the persons who are to be regarded as 'employed in the London underground railway industry' are those who are employed to carry on activities of a class or description specified for the purposes of Sch 32 para 3(9) in an order made by the Secretary of State (Sch 32 para 3(9)(a)), and the Secretary of State may so specify any class or description of activity which, in his opinion, falls within, or is related to or connected with, the London underground railway industry (Sch 32 para 3(9)(b)).

10 For these purposes, 'contributing member', in the case of any pension scheme, means a member who makes, and whose employer makes in respect of him, contributions under the scheme: ibid Sch 32 para 3(10). For the meaning of 'pension scheme' see PARA 20 note 8 ante; definition applied by virtue of Sch 32 para 1(2).

11 For the meaning of 'LRT pension scheme' see PARA 20 note 34 ante.

12 Greater London Authority Act 1999 Sch 32 para 3(3)(a) (which is expressed to be subject to any provision made by virtue of Sch 32 para 3(6) (see the text and notes 14-17 infra)).

13 Ibid Sch 32 para 3(3)(b) (amended by the Greater London Authority (Miscellaneous Amendments) Order 2000, SI 2000/1435, art 2, Schedule paras 1, 11), which is expressed to be subject to any provision made by virtue of the Greater London Authority Act 1999 Sch 32 para 3(6) (see the text and notes 14-17 infra).

14 Ie made under ibid Sch 32 para 3(2): see the text and notes 1-7 supra.

15 For the meaning of 'occupational pension scheme' see PARA 20 note 34 ante.

16 As to the meaning of 'pension rights' see PARA 20 note 16 ante; definition applied by virtue of the Greater London Authority Act 1999 Sch 32 para 1(2).

17 Ibid Sch 32 para 3(6).

18 Ibid Sch 32 para 3(7).

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## **22. Power to dispense with consent of trustees for London Regional Transport pension etc schemes.**

If the Secretary of State<sup>1</sup> makes provision under the Greater London Authority Act 1999 for or in connection with:

- 72 (1) enabling employees<sup>2</sup> of Transport for London<sup>3</sup>, or of a subsidiary<sup>4</sup> of Transport for London, or of a private sector company<sup>5</sup> to participate in an LRT pension scheme<sup>6</sup>; or
- 73 (2) enabling Transport for London, a subsidiary of Transport for London or such a company to participate as an employer<sup>7</sup> in such a scheme<sup>8</sup>,

he may by order<sup>9</sup> make provision requiring the trustees of the scheme or any other person whose approval or consent is necessary in connection with the doing of anything required to be done by virtue of the order to give that approval or consent<sup>10</sup>.

1 As to the Secretary of State see PARA 12 note 2 ante.

2 As to the meaning of 'employee' see PARA 20 note 34 ante.

3 As to Transport for London see PARAS 218, 269 et seq post.

4 For these purposes, 'subsidiary' has the same meaning as in the Companies Act 1985 s 736 (as substituted) (see **COMPANIES** vol 14 (2009) PARA 25): Greater London Authority Act 1999 s 424(1).

5 For the meaning of 'private sector company' see PARA 21 note 3 ante; definition applied by ibid s 411(10), Sch 32 para 4(a).

6 Ibid Sch 32 para 4(a). For the meaning of 'LRT pension scheme' see PARA 20 note 34 ante. As to the application of Sch 32 to LRT welfare schemes see PARA 23 note 4 post.

7 As to the meaning of 'employer' see PARA 20 note 34 ante.

8 Greater London Authority Act 1999 Sch 32 para 4(b).

9 Ie by order made by the Secretary of State under ibid s 411(1) (see PARA 20 ante); see Sch 32 para 1(1).

10 Ibid Sch 32 para 4.

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### **23. London Regional Transport welfare schemes.**

An order made in relation to pensions<sup>1</sup> may provide for the provision, under an LRT welfare scheme<sup>2</sup>, of benefits for or in respect of persons who are or have been employees<sup>3</sup> of London Regional Transport or any subsidiary of London Regional Transport<sup>4</sup>, or Transport for London or any subsidiary of Transport for London<sup>5</sup>. The Secretary of State<sup>6</sup> may by order amend the memorandum and articles of any company<sup>7</sup> which is the trustee of an LRT welfare scheme for or in connection with permitting directors or shareholders of the company to be persons who are officers or servants of Transport for London or a subsidiary of Transport for London<sup>8</sup>.

Any powers which were vested in the London Transport Board in relation to an LRT welfare scheme<sup>9</sup>, and which have not become vested by virtue of a transfer<sup>10</sup> in London Regional Transport<sup>11</sup>, are deemed to be vested in London Regional Transport by virtue of a transfer<sup>12</sup>.

1    Ie under the Greater London Authority Act 1999 s 411(1): see PARA 20 ante. For the meaning of 'pension' see PARA 20 note 3 ante; definition applied by virtue of s 411(10), Sch 32 para 1(2).

2    'LRT welfare scheme' means a scheme, other than a pension scheme, for the provision, whether directly or indirectly, of benefits for or in respect of persons with service in the employment of London Regional Transport or a subsidiary of London Regional Transport, whether or not benefits may also be provided under the scheme for or in respect of persons without such service: *ibid* Sch 32 para 1(1). For the meaning of 'pension scheme' see PARA 20 note 8 ante; definition applied by virtue of Sch 32 para 1(2). As to the meaning of 'employment' see PARA 20 note 34 ante. For these purposes, 'subsidiary' has the same meaning as in the Companies Act 1985 s 736 (as substituted) (see **COMPANIES** vol 14 (2009) PARA 25): Greater London Authority Act 1999 s 424(1). As to the transition from London Regional Transport to Transport for London see PARA 271 et seq post.

3    As to the meaning of 'employee' see PARA 20 note 34 ante.

4    Greater London Authority Act 1999 Sch 32 para 5(1)(a). For the purposes of Sch 32 para 5(1), the provisions of s 411 (see PARA 20 ante), Sch 32 paras 1-4 (see PARAS 20-22 ante), and Sch 32 para 6 (see PARA 20 ante), apply in relation to an LRT welfare scheme as they apply in relation to a pension scheme, but taking references in those provisions to pensions as references to benefits and construing references to pension rights accordingly: Sch 32 para 5(2). For the meaning of 'pension rights' see PARA 20 note 16 ante; definition applied by virtue of Sch 32 para 1(2).

5    *Ibid* Sch 32 para 5(1)(b). See note 4 supra.

6    As to the Secretary of State see PARA 12 note 2 ante.

7    For these purposes, 'company', 'memorandum' and 'articles' have the same meanings as in the Companies Act 1985 ss 735(1), 744 (see **COMPANIES** vol 14 (2009) PARAS 18, 243): Greater London Authority Act 1999 Sch 32 para 5(3).

8    *Ibid* Sch 32 para 5(3).

9    *Ibid* Sch 32 para 5(4)(a).

10   Ie by virtue of a transfer under the Transport (London) Act 1969 s 16(1) (now repealed) or otherwise: see the Greater London Authority Act 1999 Sch 32 para 5(4)(b).

11   *Ibid* Sch 32 para 5(4)(b).

12   *Ibid* Sch 32 para 5(4). Anything done at any time by or in relation to London Regional Transport before the coming into force of Sch 32 para 5(4), and in reliance on any power deemed by Sch 32 para 5(4) to be

vested in London Regional Transport, is as valid and effective as if the power had at that time been vested in London Regional Transport: Sch 32 para 5(5).

## **UPDATE**

### **23 London Regional Transport welfare schemes**

NOTE 7--Greater London Authority Act 1999 Sch 32 para 5(3) amended: SI 2009/1941.



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## **24. Transfer and pension instruments.**

The property, rights and liabilities which may be transferred by a transfer or pension instrument<sup>1</sup> include property, rights and liabilities that would not otherwise be capable of being transferred or assigned<sup>2</sup>, and rights and liabilities under enactments<sup>3</sup>.

No right of reverter, right of pre-emption, right of forfeiture, right of re-entry, right to compensation, option or similar right affecting any land or other property is to operate or become exercisable as a result of any transfer of land or other property by virtue of a transfer or pension instrument (whether or not any consent required to the transfer has been obtained)<sup>4</sup>. No right to terminate or vary a contract or instrument is to operate or become exercisable, and no provision of a contract or relevant document<sup>5</sup> is to operate or become exercisable or be contravened, by reason of any transfer by virtue of a transfer or pension instrument<sup>6</sup>. For purposes connected with any transfers made by virtue of a transfer or pension instrument, including the transfer of rights and liabilities under an enactment, a body or person to which anything is transferred by virtue of the instrument is to be treated as the same person in law as the body or person from which it is transferred, except as otherwise provided in the instrument<sup>7</sup>.

A transfer or pension instrument may define the property, rights and liabilities to be transferred by it: (1) by specifying or describing them<sup>8</sup>; (2) by referring to all, or all but so much as may be excepted, of the property, rights and liabilities comprised in a specified part of the undertaking of the transferor<sup>9</sup>; or (3) partly in the one way and partly in the other<sup>10</sup>.

A transfer or pension instrument may make provision for the apportionment or division of any property, rights or liabilities<sup>11</sup>. Where a transfer or pension instrument makes provision for the apportionment or division between two or more persons of any rights or liabilities under a contract, the contract has effect, as from the coming into force of the provision, as if it constituted two or more separate contracts separately enforceable by and against each of those persons respectively as respects the part of the rights or liabilities which falls to him as a result of the apportionment or division<sup>12</sup>.

The provision that may be made by a transfer or pension instrument includes provision for:

- 74 (a) any transfer of land or other property by virtue of the instrument<sup>13</sup>;
- 75 (b) the grant or creation of any estate or interest in, or right over, any land or other property by virtue of the instrument<sup>14</sup>; or
- 76 (c) the doing of any other thing in relation to land or other property by virtue of the instrument<sup>15</sup>,

to be on such terms, including financial terms, as the body or person making the instrument thinks fit<sup>16</sup>.

A transfer or pension instrument<sup>17</sup> may provide that:

- 77 (i) disputes as to the effect of the instrument between the transferor and any transferee are to be referred to such arbitration as may be specified in or determined under the instrument<sup>18</sup>;

- 78 (ii) determinations on such arbitrations and certificates given jointly by the transferor and any transferee as to the effect of the instrument as between them are to be conclusive for all purposes<sup>19</sup>.

A Minister of the Crown<sup>20</sup> may by order confer on any body or person to whom property, rights or liabilities are transferred by a transfer or pension instrument any statutory functions which were previously exercisable in relation to that property or, as the case may be, those rights or liabilities by a predecessor body<sup>21</sup> or, in the case of a transfer<sup>22</sup>, the transferor under the instrument<sup>23</sup>.

It is the duty of each of the successor or predecessor bodies<sup>24</sup>, and of the trustees or managers, or administrators, of any pension scheme, to provide any Minister of the Crown with such information or assistance as he may reasonably require for the purposes of, or in connection with, the exercise of any powers exercisable by him in relation to transfer or pension instruments<sup>25</sup>.

Where any person is entitled, in consequence of any transfer made by virtue of a transfer or pension instrument, to possession of a document relating in part to the title to, or to the management of, any land or other property in England and Wales:

- 79 (A) the instrument may contain provision for treating that person as having given another person an acknowledgment in writing of the right of that other person to the production of the document and to delivery of copies of it<sup>26</sup>; and
- 80 (B) the provisions of the Law of Property Act 1925 relating to the production and safe custody of documents<sup>27</sup> have effect accordingly and on the basis that the acknowledgment did not contain any expression of contrary intention<sup>28</sup>.

1 For these purposes, 'transfer or pension instrument' means an order under the Greater London Authority Act 1999 s 408 (see PARA 17 ante) or s 411 (see PARA 20 ante), or a scheme under s 409 (see PARA 18 ante): s 412(15).

2 Ibid s 412(1)(a).

3 Ibid s 412(1)(b).

4 Ibid s 412(2). The provisions of s 412(2)-(5) have effect in relation to the grant or creation of an estate or interest in, or right over, any land or other property, or the doing of any other thing in relation to land or other property, as they have effect in relation to a transfer of land or other property: s 412(6).

5 For these purposes, 'relevant document' means: (1) any enactment other than an enactment contained in the Greater London Authority Act 1999; (2) any subordinate legislation made otherwise than under that Act; or (3) any deed or other instrument: s 412(15). For these purposes, 'subordinate legislation' has the same meaning as in the Interpretation Act 1978 s 21(1) (see **STATUTES** vol 44(1) (Reissue) PARA 1232): Greater London Authority Act 1999 s 424(1).

6 Ibid s 412(3). See note 4 supra.

7 Ibid s 412(4). Section 412(4) is without prejudice to s 300 (see PARA 275 post), s 415 (see PARA 27 post), or any other provision made by or under the Greater London Authority Act 1999 which makes transitional provision in relation to a transfer: s 412(5). See note 4 supra.

8 Ibid s 412(7)(a).

9 Ibid s 412(7)(b).

10 Ibid s 412(7)(c).

11 Ibid s 412(8).

12 Ibid s 412(9).

- 13 Ibid s 412(10)(a).
- 14 Ibid s 412(10)(b).
- 15 Ibid s 412(10)(c).
- 16 Ibid s 412(10).
- 17 Ie other than an order under ibid s 411: see PARA 20 ante.
- 18 Ibid s 412(11)(a).
- 19 Ibid s 412(11)(b).
- 20 As to the meaning of 'Minister of the Crown' see PARA 12 note 1 ante.
- 21 Ie by a body or person falling within the Greater London Authority Act 1999 s 408(3): see PARA 17 ante.
- 22 Ie under or by virtue of ibid s 411: see PARA 20 ante.
- 23 Ibid s 412(12).
- 24 Ie of each of the bodies and persons falling within ibid s 408(2), (3): see PARA 17 heads (1)-(9), (a)-(j) ante.
- 25 Ibid s 412(13).
- 26 Ibid s 412(14)(a).
- 27 Ie the Law of Property Act 1925 s 64: see **SALE OF LAND** vol 42 (Reissue) PARA 299.
- 28 Greater London Authority Act 1999 s 412(14)(b). The text refers to any such expression of contrary intention as is mentioned in the Law of Property Act 1925 s 64: see **SALE OF LAND** vol 42 (Reissue) PARA 299.

## **UPDATE**

### **24 Transfer and pension instruments**

NOTE 6--A transfer scheme made under the 1999 Act s 409(1) or (2) may be made exempt from s 412(3): see the Railways and Transport Safety Act 2003 s 114.

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## **25. Modification of transfer or pension instruments.**

If, at any time after a transfer or pension instrument<sup>1</sup> has come into force, a Minister of the Crown<sup>2</sup> considers it appropriate to do so, he may by order provide that the instrument is for all purposes to be deemed to have come into force with such modifications as may be specified in the order<sup>3</sup>. Such an order may make such provision as could have been made by the transfer or pension instrument<sup>4</sup>, and may only be made after the requisite consultation<sup>5</sup>.

If, at any time after a transfer scheme<sup>6</sup> has come into force, a Minister of the Crown considers it appropriate to do so, he may by directions require a successor body<sup>7</sup> to prepare modifications to the scheme of such a description as may be specified in the directions<sup>8</sup>. Where a body or person is required to prepare any such modifications to a transfer scheme, the body or person must submit the modifications to the minister for his approval before such date as he may direct<sup>9</sup>. Where any such modifications are so submitted, the minister may approve<sup>10</sup> them with or without amendment<sup>11</sup>. Such approval may only be given after the requisite consultation<sup>12</sup> and is to take effect on such date as the minister may specify in giving the approval<sup>13</sup>.

Where any modifications are made and approved<sup>14</sup>, whether with or without amendment, the scheme is for all purposes to be deemed to have come into force with those modifications, subject to any such amendment<sup>15</sup>.

1 For the meaning of 'transfer or pension instrument' see PARA 24 note 1 ante; definition applied by virtue of the Greater London Authority Act 1999 s 413(11).

2 As to the meaning of 'Minister of the Crown' see PARA 12 note 1 ante.

3 Greater London Authority Act 1999 s 413(1). As to the order that has been made under s 413(1), (2) see the GLA Roads and Side Roads (Transfer of Property etc) (Modification) (College Farm, Finchley) Order 2000, SI 2000/2493. As to the power to make orders generally see PARA 13 ante.

4 Greater London Authority Act 1999 s 413(2). See note 3 supra.

5 Ibid s 413(3). For these purposes, 'the requisite consultation' is to the extent that the transfer or pension instrument concerned makes provision:

16 (1) by virtue of, in the case of a scheme, s 409(7) (see PARA 18 ante), and in the case of an order, s 411 (see PARA 20 ante), is consultation with the trustees or managers, or the administrators, of any pension scheme affected (s 413(10)(a), (11)); and

17 (2) otherwise than by virtue of, in the case of a scheme, s 409(7), and in the case of an order, s 411, is consultation with any body which, or person who, the minister considers may be affected (s 413(10)(b), (11)).

6 I.e. under ibid s 409: see PARA 18 ante.

7 I.e. a body or person falling within ibid s 408(2): see PARA 17 heads (1)-(9) ante.

8 Ibid s 413(4). As to the giving of directions see PARA 13 ante.

9 Ibid s 413(5).

10 For these purposes, 'approval' means approval in writing: ibid s 413(11).

11 Ibid s 413(6).

- 12 Ibid s 413(7). As to the requisite consultation see note 5 supra.
- 13 Ibid s 413(8).
- 14 Ie under ibid s 413(1)-(8).
- 15 Ibid s 413(9).

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## **26. Perfection of vesting of foreign property, rights or liabilities.**

Where a transfer or pension instrument<sup>1</sup> provides for the transfer of any foreign property, rights or liabilities<sup>2</sup>, it is the duty of the transferor and the transferee to take, as and when the transferee considers appropriate, all such steps as may be requisite to secure that the vesting in the transferee by virtue of the transfer or pension instrument of any foreign property, right or liability is effective under the relevant foreign law<sup>3</sup>. Until the vesting in the transferee, by virtue of the transfer or pension instrument, of any foreign property, right or liability is effective under the relevant foreign law, it is the duty of the transferor to hold that property or right for the benefit of, or to discharge that liability on behalf of, the transferee<sup>4</sup>. The transferor has all such powers as may be requisite for the performance of his duty where a transfer or pension instrument provides for the transfer of any foreign property, rights or liabilities, but it is the duty of the transferee to act on behalf of the transferor, so far as possible, in performing the duty so imposed on the transferor<sup>5</sup>.

Duties imposed on the transferor or the transferee<sup>6</sup> are enforceable in the same way as if the duties were imposed by a contract between the transferor and the transferee<sup>7</sup>. Any expenses incurred by the transferor<sup>8</sup> are to be met by the transferee<sup>9</sup>.

1 For the meaning of 'transfer or pension instrument' see PARA 24 note 1 ante; definition applied by virtue of the Greater London Authority Act 1999 s 414(9).

2 Ibid s 414(1). References in s 414 to any foreign property, right or liability are references to any property, right or liability as respects which any issue arising in any proceedings would have been determined (in accordance with the rules of private international law) by reference to the law of a country or territory outside the United Kingdom: s 414(6). 'United Kingdom' means Great Britain and Northern Ireland: Interpretation Act 1978 s 5, Sch 1. 'Great Britain' means England, Scotland and Wales: Union with Scotland Act 1706 preamble art I; Interpretation Act 1978 s 22(1), Sch 2 para 5(a). Neither the Channel Islands nor the Isle of Man are within the United Kingdom. See further CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 3.

3 Greater London Authority Act 1999 s 414(2). Nothing in s 414(2), (3) is to be taken as prejudicing the effect under the law of any part of the United Kingdom of the vesting in the transferee by virtue of a transfer or pension instrument of any foreign property, right or liability: s 414(4).

4 Ibid s 414(3). See note 3 supra.

5 Ibid s 414(5).

6 Ie by ibid s 414.

7 Ibid s 414(6).

8 Ie under ibid s 414.

9 Ibid s 414(7).

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## 27. Continuity.

None of the following, that is to say:

- 81 (1) the abolition or dissolution by or under the Greater London Authority Act 1999 of any body or office<sup>1</sup>;
- 82 (2) the transfer, repeal or revocation by or under that Act of any functions<sup>2</sup>; or
- 83 (3) the transfer by or under that Act of any property, rights or liabilities<sup>3</sup>,

affects the validity of anything done before the abolition, dissolution, transfer, repeal or revocation takes effect<sup>4</sup>.

Where any functions, property, rights or liabilities are transferred by or under the Greater London Authority Act 1999 from a body or person ('the transferor') to another body or person ('the transferee')<sup>5</sup>, there may be continued by or in relation to the transferee anything, including legal proceedings, which relates to any of the functions, property, rights or liabilities transferred<sup>6</sup> and which is in the process of being done by or in relation to the transferor<sup>7</sup> immediately before the transfer takes effect<sup>8</sup>. Anything which was made or done by or in relation to the transferor for the purposes of or otherwise in connection with any of the functions, property, rights or liabilities transferred, and is in effect immediately before the transfer takes effect, is to have effect as if made or done by or in relation to the transferee<sup>9</sup>. The transferee must be substituted for the transferor in any instruments, contracts or legal proceedings which relate to any of the functions, property, rights or liabilities transferred<sup>10</sup> and which are made or commenced before the transfer takes effect<sup>11</sup>.

Any question<sup>12</sup> as to whether any particular functions, property, rights or liabilities are transferred by or under the Greater London Authority Act 1999, or the body to which or person to whom any particular functions, property, rights or liabilities are so transferred, may be determined by a direction given by the Secretary of State<sup>13</sup>.

Nothing in the provisions described above<sup>14</sup> is to be construed as continuing in force any contract of employment<sup>15</sup>, or as transferring any rights or liabilities relating to pensions<sup>16</sup>.

1 Greater London Authority Act 1999 s 415(1)(a). The provisions of s 415(1)-(7) are without prejudice to any provision made by or under the Greater London Authority Act 1999 in relation to any particular functions: s 415(8).

2 Ibid s 415(1)(b). See note 1 supra.

3 Ibid s 415(1)(c). See note 1 supra.

4 Ibid s 415(1). As to the continuity of abolished functions of London Regional Transport see s 300; and PARA 275 post.

5 Ibid s 415(2). See note 1 supra.

6 Ibid s 415(3)(a). See note 1 supra. The provisions of s 415(3)-(5) do not apply in relation to the transfer of functions, property, rights and liabilities to the extent that the provision by which, or the order or instrument under which, the transfer is made provides otherwise: s 415(9).

7 Any reference in *ibid* s 415 to anything made or done by or in relation to the transferor includes a reference to anything which by virtue of any enactment is treated as having been made or done by or in relation to the transferor: s 415(6).

8 *Ibid* s 415(3)(b). See notes 1, 6 *supra*.

9 *Ibid* s 415(4). See notes 1, 6 *supra*.

10 *Ibid* s 415(5)(a). See notes 1, 6 *supra*.

11 *Ibid* s 415(5)(b). See notes 1, 6 *supra*.

12 *Ie* under *ibid* s 415.

13 *Ibid* s 415(7). See note 1 *supra*. As to the Secretary of State see PARA 12 note 2 *ante*. As to the giving of directions see PARA 13 *ante*.

14 *Ie* *ibid* s 415.

15 *Ibid* s 415(10)(a).

16 *Ibid* s 415(10)(b).



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## **28. Repeal and re-enactment.**

Where:

- 84 (1) provision is made by or under the Greater London Authority Act 1999 for the repeal and re-enactment, with or without modifications, of any provision of the London Regional Transport Act 1984<sup>1</sup>; and
- 85 (2) the provision as re-enacted ('the new provision') comes into force before the repeal of the provision of the London Regional Transport Act 1984 ('the old provision')<sup>2</sup>,

the provision that may be made by the Secretary of State<sup>3</sup> under or by virtue of any power to make transitional provision by order under any provision of Part XII of the Greater London Authority Act 1999<sup>4</sup> includes power to make provision for:

- 86 (a) any reference to the old provision in any relevant document<sup>5</sup> to be construed as, or as including, a reference to the new provision<sup>6</sup>; or
- 87 (b) anything made or done, or having effect as if made or done, under or by virtue of the old provision, to have effect, to the extent that it could have been made or done under or by virtue of the new provision, as if made or done under or by virtue of the new provision<sup>7</sup>,

notwithstanding that the repeal of the old provision has not come into force<sup>8</sup>. Such an order may make provision in relation to all provisions falling within head (2) above or such of those provisions as may be specified or described in the order<sup>9</sup>, and generally or in relation to such cases or circumstances, or such relevant documents or descriptions of relevant documents, as may be so specified or described<sup>10</sup>.

Provision is made<sup>11</sup> in relation to any agreement made by London Regional Transport under which a contractor carries on any activities which London Regional Transport does not have power to carry on along with activities which London Regional Transport does have the power to carry on<sup>12</sup>. In the case of any such agreement no provision of the agreement is to operate or is to cease to have effect<sup>13</sup>, and no rights under the agreement are to operate or become exercisable<sup>14</sup>, by reason only that a statutory duty exercisable by any body or person ('the predecessor') becomes exercisable instead by another body or person ('the transferee') in consequence of any provision made by or under the Greater London Authority Act 1999 for the repeal and re-enactment, with or without modifications, of the provision imposing the statutory duty<sup>15</sup>. Accordingly, any such agreement continues in force and has effect as if the predecessor and the transferee were in law the same person and as if there had been no change in the body or person by whom the statutory duty is exercisable<sup>16</sup>. In any such agreement, or any agreement made in connection with such an agreement, any reference to London Regional Transport's duties under the London Regional Transport Act 1984 is to be taken as including a reference to the corresponding duties of Transport for London or the Greater London Authority<sup>17</sup> (whether acting by the Mayor of London<sup>18</sup>, the London Assembly<sup>19</sup>, or the Mayor and Assembly acting jointly) under the Greater London Authority Act 1999<sup>20</sup>.

1 Greater London Authority Act 1999 s 416(1)(a). Section 416 is without prejudice to: (1) any power conferred by any other provision of the Greater London Authority Act 1999; and (2) the Interpretation Act 1978 ss 15-17 (repealing enactments: see **STATUTES** vol 44(1) (Reissue) PARA 1306 et seq): Greater London Authority Act 1999 s 416(9).

2 Ibid s 416(1)(b).

3 As to the Secretary of State see PARA 12 note 2 ante.

4 Ie the Greater London Authority Act 1999 Pt XII (ss 405-425) (as amended): see PARA 14 et seq ante.

5 For these purposes, 'relevant document' means: (1) any enactment; (2) any instrument made under an enactment; (3) any deed or other instrument; (4) any agreement; (5) any document not falling within heads (1)-(4) supra: ibid s 416(3).

6 Ibid s 416(2)(a).

7 Ibid s 416(2)(b).

8 Ibid s 416(2).

9 Ibid s 416(4)(a).

10 Ibid s 416(4)(b).

11 Ie by ibid s 416(6)-(8): see the text and notes 13-20 infra.

12 See ibid s 416(5). The agreements referred to in the text are those made under the London Regional Transport Act 1984 s 3(2A)(a) (as added; prospectively repealed), whether or not the agreement is a transport subsidiary's agreement or has effect as if made under or by virtue of the Greater London Authority Act 1999 s 156(3) (see PARA 287 post) by Transport for London: see s 416(5). For the meaning of 'transport subsidiary's agreement' see PARA 288 note 2 post. As to Transport for London see PARAS 218, 269 et seq post. As to the transition from London Regional Transport to Transport for London see PARA 271 et seq post.

13 Ibid s 416(6)(a).

14 Ibid s 416(6)(b).

15 Ibid s 416(6).

16 Ibid s 416(7).

17 As to the Greater London Authority see PARAS 34, 79 et seq post.

18 As to the Mayor of London see PARA 81 post.

19 As to the London Assembly see PARA 82 post.

20 Greater London Authority Act 1999 s 416(8).

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## **(2) ADMINISTRATIVE AREAS AND AUTHORITIES**

### **(i) Administrative Areas**

#### **A. GREATER LONDON**

##### **29. Greater London as an administrative area.**

The 32 London boroughs<sup>1</sup> with the City of London<sup>2</sup>, the Inner Temple and the Middle Temple<sup>3</sup> together constitute an administrative area known as Greater London<sup>4</sup>. Greater London is divided into constituencies for the purposes of the election of constituency members of the London Assembly<sup>5</sup>.

Greater London is a local government area, but not a principal area, for the purposes of the Local Government Act 1972<sup>6</sup> and of the Local Government Act 1992<sup>7</sup>. Its boundaries are subject to alteration in accordance with Part II of the 1992 Act<sup>8</sup>.

Since the reorganisation effected in 1965 by the London Government Act 1963, no part of Greater London has formed part of any administrative county, district or parish<sup>9</sup>. However, for certain purposes Greater London is treated as a county<sup>10</sup>. In particular, Greater London (excluding the City of London) is treated as a county for the purposes of the appointment of a lord lieutenant<sup>11</sup> and Greater London (excluding the City of London, the Inner Temple and the Middle Temple) is treated as a county for the purposes of the appointment of a high sheriff<sup>12</sup>.

The area of Greater London (excluding the City of London, the Inner Temple and the Middle Temple) constitutes the metropolitan police district<sup>13</sup>.

1 As to the London boroughs see PARA 30 post.

2 As to the City of London para 31 post.

3 As to the Temples see PARA 32 post.

4 See the London Government Act 1963 s 2(1). See also PARA 4 ante. As to the area of Greater London see also PARA 33 note 3 post.

5 As to the London Assembly see PARA 82 post; as to the constituency members see PARAS 82, 92 post; and as to the Assembly constituencies see PARAS 93-96 post.

6 See the Local Government Act 1972 s 270(1) (as amended); and **LOCAL GOVERNMENT** vol 69 (2009) PARAS 22-23.

7 See the Local Government Act 1992 s 28(1); and **LOCAL GOVERNMENT** vol 69 (2009) PARA 23.

8 See *ibid* Pt II (ss 12-27) (as amended).

9 See the London Government Act 1963 s 3 (repealed). As to the reorganisation effected by the London Government Act 1963, and the abolition of various administrative areas and their councils or corporations, see PARAS 4 ante, 30, 33 post.

10 Statutes sometimes provide that Greater London is to be treated as a county for some purposes: see eg the Inner Urban Areas Act 1978 s 17(1); and **TOWN AND COUNTRY PLANNING** vol 46(3) (Reissue) PARA 1410 et seq.

11 See the Lieutenancies Act 1997 s 1(4), Sch 1 para 2(a); and **LOCAL GOVERNMENT** vol 69 (2009) PARA 116. As to the Commissioners of Lieutenancy for the City of London see s 7; and **LOCAL GOVERNMENT** vol 69 (2009) PARA 116.

12 See the Administration of Justice Act 1964 s 19 (as amended); the Local Government Act 1972 s 219(1), (8) (as amended); and **LOCAL GOVERNMENT** vol 69 (2009) PARA 115; **SHERIFFS** vol 42 (Reissue) PARA 1101. The Inner Temple and the Middle Temple are included in the City of London for the purposes of the law relating to sheriffs: see the Administration of Justice Act 1964 s 26 (as amended); and PARAS 31-32 post. As to sheriffs of the City of London see PARA 31 post; and **SHERIFFS** vol 42 (Reissue) PARAS 1109-1110.

13 See the London Government Act 1963 s 76 (substituted by the Greater London Authority Act 1999 s 323). As to the metropolitan police see **POLICE** vol 36(1) (2007 Reissue) PARA 137; and as to the City of London police see **POLICE** vol 36(1) (2007 Reissue) PARA 138.

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THE LONDON BOROUGH/30. London boroughs.

## ***B. THE LONDON BOROUGHS***

### **30. London boroughs.**

The London Government Act 1963 established 32 administrative areas known as London boroughs<sup>1</sup>. Provision is made for the name of each London borough by its charter of incorporation<sup>2</sup>. The names of the London boroughs are:

- 88 (1) City of Westminster;
- 89 (2) Camden;
- 90 (3) Islington;
- 91 (4) Hackney;
- 92 (5) Tower Hamlets;
- 93 (6) Greenwich;
- 94 (7) Lewisham;
- 95 (8) Southwark;
- 96 (9) Lambeth;
- 97 (10) Wandsworth;
- 98 (11) Hammersmith and Fulham<sup>3</sup>;
- 99 (12) Royal Borough of Kensington and Chelsea;
- 100 (13) Waltham Forest;
- 101 (14) Redbridge;
- 102 (15) Havering;
- 103 (16) Barking and Dagenham<sup>4</sup>;
- 104 (17) Newham;
- 105 (18) Bexley;
- 106 (19) Bromley;
- 107 (20) Croydon;
- 108 (21) Sutton;
- 109 (22) Merton;
- 110 (23) Royal Borough of Kingston-upon-Thames;
- 111 (24) Richmond-upon-Thames;
- 112 (25) Hounslow;
- 113 (26) Hillingdon;
- 114 (27) Ealing;
- 115 (28) Brent;
- 116 (29) Harrow;
- 117 (30) Barnet;
- 118 (31) Haringey;
- 119 (32) Enfield.

The London boroughs mentioned in heads (1) to (12) above are referred to as inner London boroughs<sup>5</sup> and those mentioned in heads (13) to (32) above are referred to as outer London boroughs<sup>6</sup>. A London borough is both a principal area and a local government area for the purposes of the Local Government Act 1972<sup>7</sup> and the Local Government Act 1992<sup>8</sup>.

The London Government Act 1963 applies the provisions of the Municipal Corporations Act 1882<sup>9</sup> to every London borough, and provides that the expression 'borough', when used in relation to local government in any enactment<sup>10</sup>, generally<sup>11</sup> includes a London borough<sup>12</sup>.

The boundaries of a London borough are subject to alteration in accordance with Part II of the Local Government Act 1992<sup>13</sup>. The boundary changes that may be made include: (a) the constitution of a new London borough by the amalgamation of two or more London boroughs or by the aggregation of parts of London boroughs or by the separation of part of a London borough<sup>14</sup>; and (b) the abolition of a London borough and the distribution of its area among other London boroughs<sup>15</sup>.

For the purposes of the election of councillors, each London borough is divided into wards<sup>16</sup>.

1 See the London Government Act 1963 s 1(1). The areas of the London boroughs are based on the areas of the authorities abolished by the London Government Act 1963, and are described in s 1(1), Sch 1 Pt I. Provision is made for the definition of certain London borough boundaries: see Sch 1 Pt II; and the London Boroughs (Boundaries) Order 1963, SI 1963/2031. In any Act, unless the contrary intention appears, 'London borough' means a borough described in the London Government Act 1963 Sch 1, although this is subject to any alterations made under the Local Government Act 1972 Pt IV (ss 53-78) (as amended) (see **LOCAL GOVERNMENT** vol 69 (2009) PARA 77 et seq) or the Local Government Act 1992 Pt II (ss 12-27) (as amended): Interpretation Act 1978 s 5, Sch 1 (amended by the Local Government Act 1992 s 27(1), Sch 3 para 21).

2 See the London Government Act 1963 s 1(2). As to charters of incorporation, which have been granted to all London boroughs, see PARA 35 post. As to the change of name of a London borough see the Local Government Act 1972 s 74 (as amended); and **LOCAL GOVERNMENT** vol 69 (2009) PARA 26.

3 Formerly known as Hammersmith.

4 Formerly known as Barking.

5 See the London Government 1963 s 1(1)(a), Sch 1 Pt I (s 1(1) amended by the Interpretation Act 1978 s 25(1), Sch 3); and the Interpretation Act 1978 Sch 1 (as amended: see note 1 supra).

6 See the London Government 1963 s 1(1)(b), Sch 1 Pt I (s 1(1) as amended: see note 5 supra); and the Interpretation Act 1978 Sch 1 (as amended: see note 1 supra).

7 See the Local Government Act 1972 s 270(1) (as amended); and **LOCAL GOVERNMENT** vol 69 (2009) PARAS 22-23.

8 See the Local Government Act 1992 s 28(1); and **LOCAL GOVERNMENT** vol 69 (2009) PARA 23.

9 See **LOCAL GOVERNMENT** vol 69 (2009) PARA 110.

10 As to references in the London Government Act 1963 to enactments see PARA 8 note 9 ante.

11 Ie except where the context otherwise requires. Particularly excluded are the expressions 'county borough' and 'non-county borough': see *ibid* s 1(6). In London, functions of county borough councils were conferred on London borough councils by the London Government Act 1963 s 4 (as amended): see PARA 8 ante. County and non-county boroughs outside Greater London, and their municipal corporations, were abolished by the Local Government Act 1972 s 1(10), (11): see **LOCAL GOVERNMENT** vol 69 (2009) PARA 5.

12 See the London Government Act 1963 s 1(6) (amended by the Interpretation Act 1978 Sch 3; and the Statute Law (Repeals) Act 1978).

13 Ie the Local Government Act 1992 Pt II (ss 12-27) (as amended).

14 See *ibid* s 14(3)(d).

15 *Ibid* s 14(3)(e).

16 See the Local Government Act 1972 s 8(1), Sch 2 para 7(1)(b). As to the election of councillors see PARA 38 post; and **LOCAL GOVERNMENT** vol 69 (2009) PARA 126 et seq. As to elections generally see **ELECTIONS AND REFERENDUMS**.

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## **C. THE CITY OF LONDON AND THE TEMPLES**

### **31. The City of London.**

The City of London is about a square mile in extent and mostly comprises the area between the old city walls and certain liberties without the walls<sup>1</sup>. Under the reorganisation effected by the London Government Act 1963, the area of the City became part of the administrative area known as Greater London<sup>2</sup>. The City is not a London borough<sup>3</sup>, nor is it a principal area or a local government area for the purposes of the Local Government Act 1972<sup>4</sup>, but it is a local government area for the purposes of the Local Government Act 1992<sup>5</sup>. Its boundaries are subject to alteration in accordance with Part II of the 1992 Act<sup>6</sup>.

For electoral purposes, the City of London is divided into 25 wards<sup>7</sup>.

For certain purposes, the Inner Temple and the Middle Temple are treated as falling within the City of London<sup>8</sup>.

1 The Embankment southward of the gardens of the Societies of the Inner Temple and the Middle Temple, the road thereon, and the River Thames adjoining, to the middle of the river, form part of the City of London: see the London Government Order 1970, SI 1970/211, art 12. For some purposes the Temples are treated as included in the City: see the text and note 8 infra; and PARA 32 post. The area of the City is subject to alteration under the Local Government Act 1992: see the text and note 6 infra. For alterations made under earlier legislation see eg the Orders in Council made pursuant to the London Government Act 1899 s 17(2) (repealed); and orders made under the Local Government Act 1972 s 51 (repealed).

2 See the London Government Act 1963 s 2(1); and PARA 29 ante.

3 As to the London boroughs see PARA 30 ante.

4 See the Local Government Act 1972 s 270(1) (as amended); and **LOCAL GOVERNMENT** vol 69 (2009) PARAS 22-23.

5 See the Local Government Act 1992 s 28(1); and **LOCAL GOVERNMENT** vol 69 (2009) PARA 23.

6 See *ibid* Pt II (ss 12-27) (as amended).

7 The wards include eg Aldersgate, Aldgate, Bishopsgate, Bread Street, Bridge and Bridge Without, Candlewick, Castle Baynard, Cheap, Cordwainer, Cornhill, Cripplegate, Farringdon, Lime Street, Portsoken, Queenhithe, Tower, Vintry, and Walbrook. As to elections see PARA 41 post; and **ELECTIONS AND REFERENDUMS**.

8 Eg the Temples are included in the City of London for the purposes of the law relating to county courts, commissions of the peace, justices of the peace, magistrates' courts, sheriffs, juries and connected matters: see the Administration of Justice Act 1964 s 26 (amended by the Courts Act 1971 s 56, Sch 11 Pt IV; and the Lieutenancies Act 1997 s 8(4), Sch 3). See further PARA 32 post.

As to the sheriffs of the City of London see the Sheriffs Act 1887 s 33 (as amended); para 56 post; and **SHERIFFS** vol 42 (Reissue) PARAS 1109-1110. The sheriffs' functions are mainly ceremonial and most of the legal duties attaching to the office are performed by a municipal officer known as the Secondary: see PARA 58 post.

## **UPDATE**

### **31 The City of London**

NOTE 8--Administration of Justice Act 1964 s 26 further amended: Courts Act 2003 Sch 8 para 118, Sch 10.



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### **32. The Temples.**

The Inner Temple and the Middle Temple are small areas lying between the Cities of London and Westminster. They have separate identity as local administrative areas for various purposes<sup>1</sup>, but for other purposes they are regarded as falling within the City of London<sup>2</sup>. The Temples are neither principal areas nor local government areas for the purposes of the Local Government Act 1972<sup>3</sup>, but they are local government areas for the purposes of the Local Government Act 1992<sup>4</sup>. Their boundaries are subject to alteration in accordance with Part II of the 1992 Act<sup>5</sup>.

1 Eg for various purposes relating to public health: see PARA 66 post; and **ENVIRONMENTAL QUALITY AND PUBLIC HEALTH** vol 45 (2010) PARA 99.

2 Eg the Inner Temple and the Middle Temple are included in the City of London, and in no other area, for the purposes of the law relating to county courts, commissions of the peace, justices of the peace, magistrates' courts, sheriffs, juries and connected matters: see the Administration of Justice Act 1964 s 26 (amended by the Courts Act 1971 s 56, Sch 11 Pt IV; and the Lieutenancies Act 1997 s 8(4), Sch 3). For the purposes of ward elections, the Inner Temple and the Middle Temple are within the ward of Farringdon Without in the City: City of London (Various Powers) Act 1960 s 39(1)(a). As to the City of London see PARA 31 ante. As to elections see PARA 41 post; and **ELECTIONS AND REFERENDUMS**.

3 See the Local Government Act 1972 s 270(1) (as amended); and **LOCAL GOVERNMENT** vol 69 (2009) PARAS 22-23.

4 See the Local Government Act 1992 s 28(1); and **LOCAL GOVERNMENT** vol 69 (2009) PARA 23.

5 See *ibid* Pt II (ss 12-27) (as amended).

### **UPDATE**

### **32 The Temples**

NOTE 2--Administration of Justice Act 1964 s 26 further amended: Courts Act 2003 Sch 8 para 118, Sch 10.

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## **(ii) Administrative Authorities**

### **33. Authorities in London before 1999.**

Under the reorganisation of local government in London effected by the London Government Act 1963<sup>1</sup>, the Greater London Council replaced the London County Council which itself had superseded the Metropolitan Board of Works<sup>2</sup>. The Greater London Council administered a larger area<sup>3</sup> than did the London County Council but exercised fewer functions<sup>4</sup>, and the London borough councils enjoyed wide powers in their areas<sup>5</sup>.

The Local Government Act 1985 provided for the abolition of the Greater London Council, which ceased to exist on 1 April 1986<sup>6</sup>. Its functions were mainly transferred to London borough councils and the Common Council of the City of London<sup>7</sup>, but others were transferred to central government, to existing bodies or to new bodies brought into existence by or under the Local Government Act 1985<sup>8</sup>.

Before the abolition of the Greater London Council, the Inner London Education Authority was not a separate body but the name by which the Greater London Council was known when acting by a special committee as local education authority for the inner London education area<sup>9</sup>. The Inner London Education Authority became a statutory body corporate on 1 April 1986<sup>10</sup> but it was abolished by the Education Reform Act 1988<sup>11</sup> and its functions were transferred to the inner London borough councils and the Common Council of the City of London, each of which became the new local education authority for its area on 1 April 1990<sup>12</sup>.

<sup>1</sup> See PARA 4 ante.

<sup>2</sup> As to the Metropolitan Board of Works and the establishment of the London County Council see PARA 2 ante.

<sup>3</sup> Greater London comprised the whole of the county of London (see PARA 2 ante), most of the county of Middlesex (except the urban district of Potters Bar, which was transferred to Hertfordshire, and the urban districts of Staines and Sunbury-on-Thames, which were transferred to the county of Surrey: see the London Government Act 1963 s 3(1)(c), (d) (repealed)), the county boroughs of Croydon, East Ham and West Ham, and various county districts within the counties of Surrey, Kent, Essex and Hertfordshire. Small local boundary changes have been made. Administrative counties, boroughs (including county boroughs) and urban and rural districts and their councils or municipal corporations were abolished outside Greater London on 1 April 1974: see the Local Government Act 1972 s 1; and **LOCAL GOVERNMENT** vol 69 (2009) PARA 5.

<sup>4</sup> However, the Greater London Council exercised some functions not entrusted to the London County Council, the most important of which related to public transport, road traffic, highways and refuse disposal.

The Greater London Council was given extensive powers of direction and control over the London Transport Executive, which took over the greater part of the undertaking of the London Transport Board on its dissolution (see the Transport (London) Act 1969 s 39(1) (repealed)). Subsequently, however, the London Transport Executive was renamed 'London Regional Transport' and the role of the Greater London Council was transferred to the Secretary of State: see the London Regional Transport Act 1984; and PARA 271 post. As to the later establishment of Transport for London see PARA 269 et seq post. As to transport in London generally see PARA 256 et seq post.

The functions of the Greater London Council with respect to the registration and licensing of mechanically propelled vehicles and the issue of driving licences were transferred to the Secretary of State: see the Vehicle and Driving Licences Act 1969 s 1 (repealed). As to vehicle registration see **ROAD TRAFFIC** vol 40(1) (2007 Reissue) PARA 518 et seq; and as to driver licensing see **ROAD TRAFFIC** vol 40(1) (2007 Reissue) PARA 442 et seq.

The Greater London Council's functions with respect to courts of quarter sessions ceased with the abolition of those courts, the non-judicial functions of which were transferred to London borough councils, to the Common Council of the City of London and, so far as any matter relates to the Temples, to the Sub-Treasurer of the Inner Temple or, as the case may be, the Under Treasurer of the Middle Temple: see the Courts Act 1971 s 56(1), Sch 8 para 1. As to the abolition of courts of quarter sessions see s 3 (repealed); and **COURTS**. The non-judicial functions of courts of quarter sessions included those which related to the deposit of plans or documents and the keeping of records, other than those relating to judicial business: see Sch 8 para 1(1)(a), (b). As to the keeping of documents and records see PARA 71 post.

On 1 April 1974 the sewerage and sewage disposal functions of the Greater London Council, the London borough councils and the Common Council of the City of London were transferred to regional water authorities: see the Water Act 1973 ss 14, 38(1), 39(1) (all repealed). As to the later transfer to sewerage undertakers see **ENVIRONMENTAL QUALITY AND PUBLIC HEALTH** vol 46 (2010) PARA 999 et seq; **WATER AND WATERWAYS** vol 100 (2009) PARA 108. As to sewerage and sewers generally see **ENVIRONMENTAL QUALITY AND PUBLIC HEALTH** vol 46 (2010) PARA 998 et seq.

Certain functions of local health authorities and the Greater London Council ceased to be exercisable by them on 1 April 1974, and property, rights and liabilities relating to their health functions were transferred to the Secretary of State: see the National Health Service Reorganisation Act 1973 s 2(3) (repealed); and **HEALTH SERVICES** vol 54 (2008) PARA 5. As to the public health functions of local authorities see PARA 66 post; **ENVIRONMENTAL QUALITY AND PUBLIC HEALTH** vol 45 (2010) PARA 1 et seq.

5 As to the current powers, duties and functions of London borough councils see PARAS 34, 59 et seq post.

6 See the Local Government Act 1985 s 1; and PARA 5 ante. See also **LOCAL GOVERNMENT** vol 69 (2009) PARAS 17, 35. The London Residuary Body was established for the purpose of winding up the affairs of the Greater London Council: see Pt VII (ss 57-67) (as amended); para 5 ante; and **LOCAL GOVERNMENT** vol 69 (2009) PARA 17.

7 As to the Common Council of the City of London see PARA 51 et seq post.

8 As to the transfer of functions to London borough councils and other existing authorities see the Local Government Act 1985 Pt II (ss 2-17) (as amended); para 5 ante; and **LOCAL GOVERNMENT** vol 69 (2009) PARA 17. Particular provision was made in relation to certain museums (see ss 43-45 (s 43 amended by the Museum of London Act 1986 ss 1(3), 3(2), 7(3), Schedule)) and in relation to the South Bank (see the Local Government Act 1985 s 47 (amended by the Transfer of Functions (National Heritage) Order 1992, SI 1992/1311, arts 3(1), (4), 12(2), Sch 1 Pt I, Sch 2 para 7)).

9 See the London Government Act 1963 s 30 (largely repealed).

10 See the Local Government Act 1985 Pt III (ss 18-22) (repealed).

11 See the Education Reform Act 1988 s 162. See also **EDUCATION** vol 15(1) (2006 Reissue) PARA 20.

12 See *ibid* s 163 (as amended); and **EDUCATION** vol 15(1) (2006 Reissue) PARA 20. The abolition of the Inner London Education Authority did not affect the validity of anything done by it before its abolition, and provision was made for the continuity of exercise of functions: see s 195. As to the disposal of functions and property see ss 165-169 (ss 166, 167 repealed). A staff commission was established (see s 170) and provision was made in relation to remuneration, compensation, transfer and continuity of employment (see ss 171-175 (ss 173, 175 amended by the Employment Rights Act 1996 s 242, Sch 3 Pt I; and the Education Reform Act 1988 s 174 amended by the Employment Rights Act 1996 s 240, Sch 1 para 37)). Provision is also made for concurrent employment: see the Education Reform Act 1988 s 194. Controls were imposed on contracts and disposals of land: see ss 188-191 (s 190 amended by the Local Government and Housing Act 1989 s 194, Sch 12 Pt I; and the Education Reform Act 1988 s 191 amended by the Audit Commission Act 1998 s 54(1), Sch 3 para 17). Provision was made in relation to the vesting of property held for charitable purposes or powers held under charitable trusts: see the Education Reform Act 1988 s 192 (amended by the Charities Act 1993 s 98(1), Sch 6 para 30). In order to facilitate the implementation of these provisions, information and access to documents had to be given if requested: see the Education Reform Act 1988 s 193.

The functions of the London Residuary Body were extended so that it became responsible for winding up the affairs of the Inner London Education Authority on its abolition: see s 164. As to the functions of the London Residuary Body in relation to education see ss 176-183 (s 177 amended by the Local Government and Housing Act 1989 s 194, Sch 12 Pt I; the Education Reform Act 1988 s 178 amended by the Employment Rights Act 1996 s 242, Sch 3 Pt I; and the Education Reform Act 1988 s 182 amended by the Audit Commission Act 1998 s 54(1), Sch 3 para 16). As to financial provisions see the Education Reform Act 1988 s 184-186 (s 185 amended by the Local Government Finance (Capital Money) (Consequential Amendments) Order 1990, SI 1990/268, art 2, Schedule). As to the winding up of the London Residuary Body see the Education Reform Act 1988 s 187. In the course of winding up, various functions were at different times transferred to individual London borough councils: see eg the Education (London Residuary Body) (Transfer of Functions and Property) Order 1992, SI 1992/437; and the Education (London Residuary Body) (Transfer of Functions and Property) (No 2) Order 1992,

SI 1992/2257. The London Residuary Body has now been wound up: see the London Residuary Body (Winding Up) Order 1996, SI 1996/557.

## **UPDATE**

### **33 Authorities in London before 1999**

TEXT AND NOTE 11--1988 Act s 162 repealed: Statute Law (Repeals) Act 2004.

NOTE 12--1988 Act ss 164, 165, 169, 171, 175-178, 182-184, 186, 188-191, 193, 194 repealed: Statute Law (Repeals) Act 2004. SI 1992/2257 amended: SI 2001/3649. Education Reform Act 1988 s 192 amended: SI 2009/1941.

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### **34. Authorities in London since 1999.**

The Greater London Authority Act 1999 established a new authority for Greater London known as the Greater London Authority<sup>1</sup> and comprising a directly elected Mayor of London<sup>2</sup> and the separately elected London Assembly<sup>3</sup>. The Authority is constituted in an entirely different way from the Greater London Council<sup>4</sup> and has a different range of functions<sup>5</sup>. It is not a local authority<sup>6</sup> and most of its expenditure is incurred through four functional bodies<sup>7</sup>.

The London borough councils<sup>8</sup> and the Common Council of the City of London<sup>9</sup> retain responsibility for many local government functions in their areas<sup>10</sup>. London borough councils operate executive arrangements under the Local Government Act 2000<sup>11</sup>.

Where local authority functions are exercisable as respects the Temples<sup>12</sup>, they are exercisable either by the Sub-Treasurer, as respects the Inner Temple, and by the Under Treasurer, as respects the Middle Temple, or, as respects both Temples, by the Common Council of the City of London<sup>13</sup>.

1 As to the reorganisation under the Greater London Authority Act 1999 see PARA 6 ante. As to the Greater London Authority see PARA 79 et seq post.

2 As to the Mayor of London see PARA 81 post.

3 As to the London Assembly see PARA 82 post.

4 Cf the manner in which the Greater London Authority is elected: see PARA 88 et seq post. As to the Greater London Council see PARAS 4-5, 33 ante.

5 As to the functions of the Greater London Authority see PARA 164 et seq post.

6 The Authority is, however, treated as if it were a local authority for certain purposes: see eg the Greater London Authority Act 1999 s 75, which applies provisions of the Local Government Act 1972 relating to documents to the Authority; paras 83 note 10, 207 post; and **LOCAL GOVERNMENT** vol 69 (2009) PARA 536 et seq.

7 As to the functional bodies of the Greater London Authority see PARA 213 et seq post.

8 As to London borough councils see PARAS 30 ante, 35-39, 59 et seq post.

9 As to the Common Council of the City of London see PARA 51 et seq post.

10 As to the functions of London borough councils and the Common Council of the City of London see PARA 59 et seq post.

11 As to executive arrangements see PARAS 35-37 post; and **LOCAL GOVERNMENT** vol 69 (2009) PARA 303 et seq.

12 As to the Temples see PARA 32 ante.

13 For certain purposes, the Inner Temple and the Middle Temple are treated as falling within the City of London: see PARAS 31-32 ante.

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## **2. THE LONDON BOROUGH COUNCILS AND THE CORPORATION OF LONDON**

### **(1) AUTHORITIES**

#### **(i) The London Borough Councils**

##### **35. Constitution of London borough councils.**

For every London borough<sup>1</sup> there is a council, which generally consists of the mayor<sup>2</sup> and councillors<sup>3</sup>. Where, however, the council is operating executive arrangements<sup>4</sup> which involve a mayor and cabinet executive<sup>5</sup> or a mayor and council manager executive<sup>6</sup>, the council consists of an elected mayor, a chairman<sup>7</sup> and councillors<sup>8</sup>.

The council exercises all such functions as are vested in the municipal corporation of the borough or in the council of the borough by the Local Government Act 1972 or otherwise<sup>9</sup>.

Charters of incorporation of the inhabitants<sup>10</sup> of each London borough have been granted<sup>11</sup>. A London borough council cannot rely on its charter of incorporation as giving it the capacity of a natural person to enter into contracts but is confined to the powers conferred upon it by statute<sup>12</sup>.

London borough councils are both principal councils and local authorities for the purposes of the Local Government Act 1972<sup>13</sup>. As such, London borough councils are subject to the same general legislation as local authorities elsewhere in England and Wales with regard to their members<sup>14</sup>, executive arrangements<sup>15</sup>, meetings and proceedings<sup>16</sup>, arrangements for the discharge of functions<sup>17</sup>, staff<sup>18</sup>, functions<sup>19</sup>, land<sup>20</sup>, finance<sup>21</sup> and complaints of maladministration<sup>22</sup>. These topics are dealt with elsewhere in this work and this title only covers those aspects which are governed by legislation peculiar to London.

1 As to the London boroughs see PARA 30 ante.

2 The mayor is elected by the council (see PARA 36 post) and is to be distinguished from an elected mayor, who is elected by local government electors (see the Local Government Act 2000 s 39(1); and LOCAL GOVERNMENT vol 69 (2009) PARA 320 et seq). As to elected mayors see PARA 37 post.

3 See the Local Government Act 1972 s 8(1), Sch 2 para 1(2). See further PARA 36 post. As to councillors of London boroughs see PARA 38 post.

4 As to executive arrangements generally see LOCAL GOVERNMENT vol 69 (2009) PARA 303 et seq.

5 As to mayor and cabinet executives see LOCAL GOVERNMENT vol 69 (2009) PARA 328.

6 As to mayor and council manager executives see LOCAL GOVERNMENT vol 69 (2009) PARAS 328, 333.

7 As to the chairman where a council is operating executive arrangements see PARA 37 post.

8 See the Local Government Act 1972 Sch 2 paras 5B, 5C (added by the Local Government Act 2000 s 46, Sch 3 para 13). See further PARA 37 post.

9 See the Local Government Act 1972 Sch 2 para 1(2). As to the functions of London borough councils see PARA 59 et seq post.

10 As to the omission of the word 'Aldermen' from the name of the corporation see PARA 39 note 2 post.

11 Such charters are granted by Her Majesty by the advice of her Privy Council, on representations made by the Secretary of State: see the London Government Act 1963 s 1(2). The London Government Act 1963 refers to the 'minister', but ministerial functions are now exercised by the Secretary of State: see PARA 12 note 2 ante. As to the provision that may be made by such a charter see s 1(2). Any charter purporting to be granted in pursuance of the royal prerogative and s 1(2) is deemed to be valid and intra vires and its validity may not be questioned in any legal proceeding: see s 1(2). As to the royal prerogative see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARAS 367-372; CROWN AND ROYAL FAMILY vol 12(1) (Reissue) PARA 46 et seq.

If the inhabitants of a London borough are not incorporated by charter, the Secretary of State must make provision for their incorporation by an incorporation order: see s 1(3). Since charters have been granted to all the existing London boroughs, this power has not been exercised, but it could be exercised if a new London borough were created. As to the power to create new London boroughs see PARA 30 ante.

Before the Secretary of State makes representations for the grant of a charter or makes an incorporation order, he must cause such notices to be given and such inquiries to be held with respect to the matters to be dealt with by the charter or order as may appear to him to be expedient: s 1(5). As to the holding of inquiries see s 88.

12 *Hazell v Hammersmith and Fulham London Borough Council* [1992] 2 AC 1, [1991] 1 All ER 545, HL.

13 See LOCAL GOVERNMENT vol 69 (2009) PARA 23. However, the Local Government Act 1972 ss 2-7 (as amended), which provide for the constitution of principal councils (see LOCAL GOVERNMENT vol 69 (2009) PARA 126 et seq), do not apply to London borough councils and the provisions of Sch 2 (as amended) (see PARAS 36-39 post) have effect in relation to them instead: see s 8(1) (amended by the Local Government Act 1985 s 102, Sch 17).

14 See LOCAL GOVERNMENT vol 69 (2009) PARAS 126-302.

15 See LOCAL GOVERNMENT vol 69 (2009) PARAS 303-363.

16 See LOCAL GOVERNMENT vol 69 (2009) PARAS 619-640.

17 See LOCAL GOVERNMENT vol 69 (2009) PARAS 369-386.

18 See LOCAL GOVERNMENT vol 69 (2009) PARAS 425-459.

19 See LOCAL GOVERNMENT vol 69 (2009) PARAS 460-618.

20 See LOCAL GOVERNMENT vol 69 (2009) PARAS 508-534.

21 See LOCAL GOVERNMENT vol 29(1) (Reissue) PARA 514 et seq.

22 See LOCAL GOVERNMENT vol 69 (2009) PARAS 839-866.

## UPDATE

### 35 Constitution of London borough councils

NOTE 8--1972 Act Sch 2 para 5B amended, Sch 2 para 5C substituted Local Government and Public Involvement in Health Act 2007 Sch 3 para 11, Sch 18 Pt 3.

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### **36. The mayor.**

The council of a London borough<sup>1</sup> generally consists of the mayor<sup>2</sup> and councillors<sup>3</sup>. The mayor of a London borough must be elected annually by the London borough council from among the councillors<sup>4</sup>. The election of the mayor must be the first business transacted at the annual meeting<sup>5</sup> of a London borough council<sup>6</sup>. In the case of an equality of votes, the person presiding at the meeting must give a casting vote in addition to any other vote that he may have<sup>7</sup>.

Where a London borough council is operating executive arrangements which involve a leader and cabinet executive<sup>8</sup>, a member of the executive may not be elected as the mayor of the borough<sup>9</sup>.

Unless he resigns or becomes disqualified, the mayor continues in office until his successor becomes entitled to act as mayor<sup>10</sup>. During his term of office the mayor continues to be a member of the council notwithstanding the provisions relating to the retirement of councillors<sup>11</sup>. A London borough council may pay the mayor such allowance as the council thinks reasonable for the purpose of enabling the mayor to meet the expenses of his office<sup>12</sup>. The mayor of a London borough has precedence in the borough, but not so as prejudicially to affect Her Majesty's royal prerogative<sup>13</sup>.

The mayor of a London borough may appoint a councillor of the borough to be deputy mayor and, unless he resigns or becomes disqualified, the person so appointed holds office until a newly elected mayor becomes entitled to act as mayor (whether or not he continues until that time to be a councillor)<sup>14</sup>.

Where a London borough council is operating executive arrangements which involve a leader and cabinet executive, a member of the executive may not be appointed as the deputy mayor<sup>15</sup>.

The appointment of a deputy mayor must be signified in writing to the council and must be recorded in the minutes of the council<sup>16</sup>. If for any reason the mayor is unable to act or the office of mayor is vacant, the deputy mayor may discharge all functions which the mayor as such might discharge, except that he is not to take the chair at a meeting of the council unless specially appointed<sup>17</sup> by the meeting to do so<sup>18</sup>. A London borough council may pay the deputy mayor such allowance as it thinks reasonable for the purpose of enabling him to meet the expenses of his office<sup>19</sup>.

1 As to the London boroughs see PARA 30 ante.

2 The mayor is to be distinguished from an elected mayor, who is elected by local government electors where certain forms of executive arrangements are in operation: see the Local Government Act 2000 s 39(1); and LOCAL GOVERNMENT vol 69 (2009) PARA 320 et seq. As to elected mayors see PARA 37 post. As to executive arrangements generally see LOCAL GOVERNMENT vol 69 (2009) PARA 303 et seq.

The statutory duties and incidental powers of the mayor and deputy mayor are those of the chairman and vice-chairman (see LOCAL GOVERNMENT vol 69 (2009) PARA 25); and in any provision of the Local Government Act 1972 (except Sch 2 (as amended)) which applies to a London borough any reference to the chairman of the council or of any class of councils comprising the council or to a member of a local authority is to be construed as or, as the case may be, as including a reference to the mayor of the borough (see s 270(4)(a)) and any reference to the vice-chairman of the council or any such class of councils is to be construed as a reference to the deputy mayor of the borough (s 270(4)(b)). As to the deputy mayor see the text and notes 14-19 infra.

However, the provisions of s 270(4)(a) and s 270(4)(b) do not apply where a London borough council is operating executive arrangements which involve a mayor and cabinet executive or a mayor and council



manager executive: see s 270(4A) (added by the Local Government Act 2000 s 46, Sch 3 para 12). Thus where there is an elected mayor for a local authority there is a separate chairman: see PARA 37 post. As to mayor and cabinet executives see LOCAL GOVERNMENT vol 69 (2009) PARA 328; and as to mayor and council manager executives see LOCAL GOVERNMENT vol 69 (2009) PARAS 328, 333.

3 See the Local Government Act 1972 s 8(1), Sch 2 para 1(2); and PARA 35 ante. As to councillors of London boroughs see PARA 38 post.

4 Ibid Sch 2 para 2(1) (Sch 2 para 2 amended by the Local Government Act 1985 s 102, Sch 17).

5 As to the annual meeting see LOCAL GOVERNMENT vol 69 (2009) PARA 628.

6 Local Government Act 1972 Sch 2 para 3(1) (Sch 2 para 3 amended by the Local Government Act 1985 Sch 17).

7 Local Government Act 1972 Sch 2 para 3(3). If, apart from Sch 2 para 2(3) (as amended) (see the text and note 11 infra), the person presiding at the meeting would have ceased to be a member of the council, he is not entitled to vote in the election except in accordance with Sch 2 para 3(3): Sch 2 para 3(2) (as amended: see note 6 supra).

8 As to leader and cabinet executives see LOCAL GOVERNMENT vol 69 (2009) PARA 328.

9 Local Government Act 1972 Sch 2 paras 2(1A) (Sch 2 para 2 modified by Sch 2 para 5A(a) (Sch 2 para 5A added by the Local Government Act 2000 s 46, Sch 3 para 13)).

10 Local Government Act 1972 Sch 2 para 2(2) (as amended: see note 4 supra).

11 Ibid Sch 2 para 2(3) (as amended: see note 4 supra). As to the provisions relating to the retirement of councillors see Sch 2 para 6 (as amended); and PARA 38 post.

12 Ibid Sch 2 para 2(4) (as amended: see note 4 supra).

13 Ibid Sch 2 para 2(5). As to the royal prerogative see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARAS 367-372; CROWN AND ROYAL FAMILY vol 12(1) (Reissue) PARA 46 et seq.

14 See ibid Sch 2 para 5(1).

15 Ibid Sch 2 paras 5(1A) (Sch 2 para 5 modified by Sch 2 para 5A(b) (as added: see note 9 supra)).

16 Ibid Sch 2 para 5(2).

17 Ie under ibid Sch 12 para 5 (as amended): see LOCAL GOVERNMENT vol 69 (2009) PARA 630.

18 Ibid Sch 2 para 5(3).

19 Ibid Sch 2 para 5(4).

## **UPDATE**

### **36 The mayor**

NOTE 2--1972 Act s 270(4A) amended: Local Government and Public Involvement in Health Act 2007 Sch 3 para 10(4), Sch 18 Pt 3.

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### **37. Elected mayor and chairman.**

The constitution of a council of a London borough<sup>1</sup> is modified if there is an elected mayor<sup>2</sup> so that the council also includes a chairman<sup>3</sup>. Where a London borough council is operating executive arrangements<sup>4</sup> which involve a mayor and cabinet executive<sup>5</sup> or a mayor and council manager executive<sup>6</sup>, the council consists of an elected mayor, a chairman and councillors<sup>7</sup>.

The chairman of a London borough council must be elected annually by the London borough council from among the councillors<sup>8</sup>. The election of the chairman must be the first business transacted at the annual meeting<sup>9</sup> of a London borough council<sup>10</sup>. In the case of an equality of votes, the person presiding at the meeting must give a casting vote in addition to any other vote that he may have<sup>11</sup>.

A member of the executive of a London borough council may not be elected as the chairman of the council<sup>12</sup>.

Unless he resigns or becomes disqualified, the chairman continues in office until his successor becomes entitled to act as chairman<sup>13</sup>. During his term of office the chairman continues to be a member of the council notwithstanding the provisions relating to the retirement of councillors<sup>14</sup>. A London borough council may pay the chairman such allowance as the council thinks reasonable for the purpose of enabling the chairman to meet the expenses of his office<sup>15</sup>.

The elected mayor of a London borough or, if the executive arrangements provide that this provision is not to apply, the chairman of a London borough has precedence in the borough, but not so as prejudicially to affect Her Majesty's royal prerogative<sup>16</sup>.

A London borough council must appoint a member of the council to be vice-chairman of the council<sup>17</sup>. A member of the executive of a London borough council may not be appointed as the vice-chairman of the council<sup>18</sup>. Unless he resigns or becomes disqualified, the vice-chairman holds office until immediately after the election of a chairman at the next annual meeting of the council and during that time he continues to be a member of the council notwithstanding the provisions relating to the retirement of councillors<sup>19</sup>. Subject to any standing orders made by the council<sup>20</sup>, anything authorised or required to be done by, to or before the chairman may be done by, to or before the vice-chairman<sup>21</sup>. A London borough council may pay the vice-chairman such allowance as it thinks reasonable for the purpose of enabling him to meet the expenses of his office<sup>22</sup>.

1 As to the London boroughs see PARA 30 ante.

2 An elected mayor is elected by local government electors (see the Local Government Act 2000 s 39(1); and LOCAL GOVERNMENT vol 69 (2009) PARA 320 et seq) and is to be distinguished from a mayor who is elected by the council (see PARA 36 ante).

3 The provisions of the Local Government Act 1972 s 8(1), Sch 2 paras 1-5, which govern the constitution of a London borough council, are modified by Sch 2 paras 5C-5I (as added): Sch 2 para 5B (Sch 2 paras 5B-5I added by the Local Government Act 2000 s 46, Sch 3 para 13).

4 As to executive arrangements generally see LOCAL GOVERNMENT vol 69 (2009) PARA 303 et seq.

5 As to mayor and cabinet executives see LOCAL GOVERNMENT vol 69 (2009) PARA 328.

6 As to mayor and council manager executives see LOCAL GOVERNMENT vol 69 (2009) PARAS 328, 333.

7 See the Local Government Act 1972 Sch 2 para 5C (as added: see note 3 supra); and PARA 35 ante. As to councillors of London boroughs see PARA 38 post.

8 Ibid Sch 2 para 2(1) (Sch 2 para 2 amended by the Local Government Act 1985 s 102, Sch 17; and modified for these purposes by the Local Government Act 1972 Sch 2 para 5D (as added: see note 3 supra)).

9 As to the annual meeting see LOCAL GOVERNMENT vol 69 (2009) PARA 628.

10 Local Government Act 1972 Sch 2 para 3(1) (Sch 2 para 3 amended by the Local Government Act 1985 Sch 17; and modified for these purposes by the Local Government Act 1972 Sch 2 para 5F (as added: see note 3 supra)).

11 Local Government Act 1972 Sch 2 para 3(3). If, apart from Sch 2 para 2(3) (as amended and modified) (see the text and note 14 infra), the person presiding at the meeting would have ceased to be a member of the council, he is not entitled to vote in the election except in accordance with Sch 2 para 3(3): Sch 2 para 3(2) (as amended: see note 10 supra).

12 Ibid Sch 2 para 2(1A) (Sch 2 para 2 modified for these purposes by Sch 2 para 5E (as added: see note 3 supra)).

13 Ibid Sch 2 para 2(2) (as amended (see note 8 supra); and modified for these purposes by Sch 2 para 5F (as added: see note 3 supra)).

14 Ibid Sch 2 para 2(3) (as amended (see note 8 supra); and modified for these purposes by Sch 2 para 5F (as added: see note 3 supra)). As to the provisions relating to the retirement of councillors see Sch 2 para 6 (as amended); and PARA 38 post.

15 Ibid Sch 2 para 2(4) (as amended (see note 8 supra); and modified for these purposes by Sch 2 para 5F (as added: see note 3 supra)).

16 See ibid Sch 2 para 2(5) (modified for these purposes by Sch 2 paras 5D, 5G (as added: see note 3 supra)). As to the royal prerogative see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARAS 367-372; CROWN AND ROYAL FAMILY vol 12(1) (Reissue) PARA 46 et seq.

17 Ibid Sch 2 para 5(1) (Sch 2 para 5 modified for these purposes by Sch 2 para 5H (as added: see note 3 supra)).

18 Ibid Sch 2 para 5(1A) (Sch 2 para 5 modified for these purposes by Sch 2 para 5H (as added: see note 3 supra)).

19 Ibid Sch 2 para 5(2) (Sch 2 para 5 modified for these purposes by Sch 2 para 5H (as added: see note 3 supra)). As to the provisions relating to the retirement of councillors see Sch 2 para 6 (as amended); and PARA 38 post.

20 As to the standing orders of a local authority see LOCAL GOVERNMENT vol 69 (2009) PARA 620.

21 Local Government Act 1972 Sch 2 para 5(3) (Sch 2 para 5 modified for these purposes by Sch 2 para 5H (as added: see note 3 supra)).

22 Ibid Sch 2 para 5(4) (Sch 2 para 5 modified for these purposes by Sch 2 para 5I (as added: see note 3 supra)).

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### 38. Councillors.

London borough<sup>1</sup> councillors are elected by the local government electors<sup>2</sup> for the borough in accordance with the Local Government Act 1972<sup>3</sup> and Part I of the Representation of the People Act 1983<sup>4</sup>. The Local Government Act 1972 required an ordinary election of London borough councillors to take place in 1974 and such an election must be held in every fourth year thereafter<sup>5</sup>. The term of office of London borough councillors is four years and they retire together in every such fourth year on the fourth day after the ordinary day of election of such councillors and the newly elected councillors come into office on the day on which their predecessors retire<sup>6</sup>.

For the purposes of the election of councillors, every London borough is divided into wards<sup>7</sup>. Each ward returns a specified number of councillors<sup>8</sup>, and there must be a separate election for each ward<sup>9</sup>.

1 As to the London boroughs see PARA 30 ante.

2 For the purposes of the Local Government Act 1972, 'local government elector' means a person registered as a local government elector in the register of electors in accordance with the provisions of the Representation of the People Acts (see ELECTIONS AND REFERENDUMS vol 15(3) (2007 Reissue) PARA 3): Local Government Act 1972 s 270(1). As to the registration of electors see ELECTIONS AND REFERENDUMS vol 15(3) (2007 Reissue) PARA 154 et seq; and as to local government electors generally see ELECTIONS AND REFERENDUMS vol 15(3) (2007 Reissue) PARA 204.

3 As to the election of councillors under the Local Government Act 1972 see LOCAL GOVERNMENT vol 69 (2009) PARA 126 et seq. See generally ELECTIONS AND REFERENDUMS.

4 Ibid s 8(1), Sch 2 para 6(1) (amended the Representation of the People Act 1983 s 206, Sch 8 para 12; and the Local Government Act 1985 s 102, Sch 17). As to the Representation of the People Act 1983 Pt I (ss 1-66A) (as amended) see ELECTIONS AND REFERENDUMS vol 15(3) (2007 Reissue) PARA 110 et seq.

As to qualification and disqualification for election or for being a member of a local authority see LOCAL GOVERNMENT vol 69 (2009) PARA 117 et seq. Particular provision is made so that a paid member of staff of the Greater London Authority who is employed under the direction of a joint committee the membership of which includes:

18 (1) one or more persons appointed on the nomination of the Authority acting by the Mayor of London; and

19 (2) one or more members of one or more London borough councils appointed to the committee on the nomination of those councils,

is disqualified for being elected or being a member of any of those London borough councils: Local Government Act 1972 s 80(2AA) (added by the Greater London Authority Act 1999 s 69). As to the Greater London Authority see PARA 79 et seq post. As to the Mayor of London see PARA 81 post.

5 See the Local Government Act 1972 Sch 2 para 6(3) (amended by the London Councillors Order 1976, SI 1976/213, art 3). The Secretary of State may by order make such modifications of this provision as appear to him to be appropriate to secure the synchronisation of elections in London and elsewhere or to secure that provisions corresponding to the Local Government Act 1972 s 7(3) (retirement of councillors by thirds: see LOCAL GOVERNMENT vol 69 (2009) PARA 129) apply to the retirement of London borough councillors: see s 8(2) (amended by the Local Government (Interim Provisions) Act 1984 s 2(4)). No such order may be made unless a draft of it has been laid before, and approved by a resolution of, each House of Parliament: Local Government Act 1972 s 8(3). As to the orders that have been made see the London Councillors Order 1976, SI 1976/213.

6 See the Local Government Act 1972 Sch 2 para 6(3) (as amended: see note 5 supra). See also note 5 supra.

7 See *ibid* Sch 2 para 7(1) (amended by the Local Government Act 1985 Sch 17; and the Local Government Act 1992 s 27, Sch 3 para 19). As to wards see PARA 31 *ante*; and ELECTIONS AND REFERENDUMS vol 15(3) (2007 Reissue) PARA 10.

8 The such number of councillors as is specified in any order under the Local Government Act 1992 Pt II (ss 12-27) (as amended) (see LOCAL GOVERNMENT vol 69 (2009) PARA 56 *et seq*): see the Local Government Act 1972 Sch 2 para 7(1) (as amended: see note 7 *supra*). Until provision is made by such an order, the number of councillors for each ward in a London borough is that specified in the charter for the borough or in an order under the London Government Act 1963 s 1(4), Sch 1 Pt III (repealed) amending the charter, which was in force on the date of the coming into operation of the Local Government Act 1972 Pt IV (ss 53-78) (largely repealed): Sch 2 para 7(2) (amended by the Local Government Act 1992 Sch 3 para 19).

9 See the Local Government Act 1972 Sch 2 para 7(1) (as amended: see note 7 *supra*). As to the rules to be observed in relation to the electoral arrangements of a London borough see Sch 11 para 3 (amended by the Local Government (Wales) Act 1994 s 66(5), (8), Sch 15 paras 1, 61, Sch 18); and *Enfield London Borough Council v Local Government Boundary Commission for England* [1979] 1 All ER 950, CA.

## UPDATE

### 38 Councillors

NOTE 5--Local Government Act 1972 s 8(2), (3) repealed: Local Government and Public Involvement in Health Act 2007 s 54(2), Sch 18 Pt 2. See further s 54(6).

1984 Act repealed: Statute Law (Repeals) Act 2004.

NOTES 7-9--Local Government Act 1972 Sch 2 para 7(1), (2) further amended: Local Government and Public Involvement in Health Act 2007 Sch 1 para 11(4); Local Democracy, Economic Development and Construction Act 2009 Sch 4 para 4.

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### **39. Aldermen and freemen.**

The office of alderman of a London borough<sup>1</sup> ceased to exist on 8 May 1978<sup>2</sup>. However, each London borough council is a principal council for the purposes of the Local Government Act 1972<sup>3</sup> and thus has power to confer the title of honorary alderman on any past member who has rendered eminent service to the council<sup>4</sup>.

The council of a London borough has power to admit to be honorary freemen of the borough persons of distinction and persons who, in the council's opinion, have rendered eminent services to the borough<sup>5</sup>.

1 As to the London boroughs see PARA 30 ante.

2 See the Local Government Act 1972 s 8, Sch 2 para 9 (repealed). See also Sch 2 para 14 (repealed); and the Local Government Act 1972 (References to Aldermen) Order 1977, SI 1977/1710, art 3. As from 8 May 1978, the word 'Aldermen' is to be omitted from the name of the corporation of the inhabitants of any London borough: see the Local Authorities etc (Miscellaneous Provision) Order 1978, SI 1978/440, art 4. As to the incorporation of London boroughs see PARA 35 ante. As to aldermen of the City of London see PARAS 47-50 post.

3 See LOCAL GOVERNMENT vol 69 (2009) PARA 23.

4 See the Local Government Act 1972 s 249(1); and LOCAL GOVERNMENT vol 69 (2009) PARA 111.

5 See *ibid* s 249(5) (as amended); and LOCAL GOVERNMENT vol 69 (2009) PARA 111. Persons who immediately before 1 April 1965 had been admitted to be honorary freemen of the boroughs abolished by the London Government Act 1963 became honorary freemen of the London boroughs into whose areas the abolished boroughs were incorporated: see the London Government Order 1965, SI 1965/654, art 38. As to the rights of freemen and inhabitants of abolished boroughs (other than metropolitan boroughs) see the London Authorities (Property etc) Order 1964, SI 1964/1464, art 40. As to freemen of the City of London see PARA 43 post.

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## **(ii) The Corporation of the City of London**

### **A. INTRODUCTION**

#### **40. Constitution of the Corporation of the City of London.**

The citizens and freemen of the City of London are a body politic and corporate by the name of The Mayor and Commonalty and Citizens of the City of London<sup>1</sup>, with a common seal, known as the Common Seal of the City of London<sup>2</sup>. The corporation has no charter of incorporation, being a corporation by prescription<sup>3</sup>, but many charters have been granted to it for other purposes.

The corporation<sup>4</sup> discharges its function through three assemblies: the Court of Aldermen<sup>5</sup>, the Court of Common Council<sup>6</sup> and the Common Hall<sup>7</sup>. Its constitution retains medieval characteristics<sup>8</sup> and is unique in that the corporation has the power to amend its own constitution by Act of the Common Council<sup>9</sup> except so far as that power has been expressly limited by statute. It is not restricted by external control in the application of such of its property and funds as are not subject to specific trusts or special enactment<sup>10</sup>.

1 2 Will & Mar c 8 (London Quo Warranto judgment reversed) (1689) s 3. The name 'Corporation of London' became current in the nineteenth century.

2 This seal, which bears the legend *Sigillum Baronum Londiniarum*, is known to have been used as early as 1219: see Calendar Patent Rolls 1216-25 p 211. The seal may only be affixed after a resolution of the Common Council or of a committee with delegated power; certain types of resolution are deemed to authorise the fixing of the seal. As to corporate seals generally see CORPORATIONS vol 9(2) (2006 Reissue) PARA 1122 et seq.

3 As to corporations by prescription see CORPORATIONS vol 9(2) (2006 Reissue) PARA 1128.

4 The account of the corporation given in this title is mainly derived from the statement of the corporation appended to the Report of the Royal Commission on the Amalgamation of the City and County of London 1894 (C 7493); The Corporation of London, Origin, Constitution, Powers and Duties (1953); the statement by the corporation to the Royal Commission on Local Government in Greater London (1957-60), Written Evidence vol 1 p 33 (1962); and the Statement as to the Origin, Constitution and Functions of the Corporation of London (1974).

5 As to the Court of Aldermen see PARAS 47-50 post.

6 As to the Court of Common Council see PARAS 51-55 post. As to the relationship between the corporation and the Common Council of the City of London see PARAS 51, 54 post.

7 As to the Common Hall see PARA 56 post.

8 The corporation was unaffected by the Municipal Corporations Act 1835 (see s 1, Schs (A), (B) (repealed)) or by the Municipal Corporations Act 1882 (see s 6 (repealed)). Its power to promote Bills in Parliament was not affected by the Borough Funds Act 1872: see s 11 (repealed). It was not a local authority for the purposes of the Local Government Act 1933 or the London Government Act 1939, nor is it a principal council or local authority for the purposes of the Local Government Act 1972 (see LOCAL GOVERNMENT vol 69 (2009) PARAS 23-24). However, certain individual provisions of that Act apply to it as if it were such an authority or council (see PARA 1 note 13 ante), and it is a local authority for the purposes of various other public general Acts (see LOCAL GOVERNMENT vol 69 (2009) PARA 23).

9 This privilege was granted by a charter of Edward III (1341) and confirmed by an Act of Parliament of Richard II (1377). The Common Council of the City of London regulates the election of the Lord Mayor of London (see PARA 44 post) and some aspects of the election of the aldermen, sheriffs and common councilmen (other

than the franchise), and it also settles the size of the Common Council and prescribes the powers of the various civic assemblies. Like Acts of Parliament, Acts of the Common Council are read three times, but in the Court of Common Council. The first and second readings of a Bill for an Act of Common Council take place at one meeting of the Court, and the third reading takes place at the next or a subsequent meeting, when the Bill is made an Act of Common Council: Statement as to the Origin, Constitution and Functions of the Corporation (1974) p 5; Standing Orders of the Court of Common Council (No 130).

10 See *Parr v A-G* (1842) 8 Cl & Fin 409 at 431, HL.



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#### **41. City elections.**

Certain provisions of the Representation of the People Act 1983 have been applied with modifications in relation to municipal elections<sup>1</sup> in the City of London<sup>2</sup>. Otherwise these elections are governed by custom, by certain local Acts<sup>3</sup> and by various Acts of the Common Council.

Persons entitled to vote at a ward election must on the qualifying date<sup>4</sup> be of full age<sup>5</sup> and either be occupying as owner or tenant any rateable land or premises in that ward of the yearly value of not less than £10 or be resident in that ward<sup>6</sup>. They must not be subject to any legal incapacity to vote<sup>7</sup>. They must be British subjects<sup>8</sup> or citizens of the Republic of Ireland or, in the case of a ward election for common councilmen, citizens of the European Union and they must also be registered on the ward list to be used for the relevant election<sup>9</sup>. The Town Clerk has the duty of preparing and publishing ward lists of all persons entitled to vote in each ward at ward elections<sup>10</sup>, and an appeal from his decision lies to the Mayor's and City of London Court<sup>11</sup>.

The maximum amount of election expenses which may be incurred by a candidate at a ward election is £242, together with a small additional sum for every elector on the ward list<sup>12</sup>.

Certain expenses incurred in respect of ward elections which fall to be paid by the Common Council of the City of London must be paid out of the general rate<sup>13</sup>.

1 A 'municipal election' in the City of London is an election to the office of Lord Mayor, alderman, common councilman or sheriff of the City of London and also the election of any officer elected by the Lord Mayor, aldermen and liverymen in Common Hall: see the Representation of the People Act 1983 s 191(1). As to the election of the Lord Mayor of London see PARA 44 post; as to the election of aldermen see PARA 49 post; as to the election of common councilmen see PARA 52 post; and as to elections in Common Hall see PARA 56 post.

2 See *ibid* s 191(1) (amended by the Representation of the People Act 1985 ss 24, 28, Sch 4 para 66, Sch 5); and the City of London (Various Powers) Act 1957 s 8 (amended by the City of London (Various Powers) Act 1958 s 16; the Representation of the People Act 1983 s 206, Sch 8; the Representation of the People Act 1985 ss 11, 28, Sch 2 Pt III, Sch 5; the Representation of the People Act 2000 s 15(1), Sch 6 para 1; and by virtue of the City of London (Various Powers) Act 1968 s 3(2), (3)). See further ELECTIONS AND REFERENDUMS. As to ward elections see also the Representation of the People Act 1983 s 191(2), Sch 6.

3 See eg the City of London Municipal Elections Act 1849; the City of London Municipal Elections Amendment Act 1867; the City of London Ballot Act 1887; the City of London (Various Powers) Act 1946 s 10; the City of London (Various Powers) Act 1954 s 17; the City of London (Various Powers) Act 1957 Pt II (ss 4-11) (as amended); the City of London (Various Powers) Act 1958 s 16; the City of London (Various Powers) Act 1960 s 39 (amended by the Representation of the People Act 1983 s 206, Sch 8 para 5); the City of London (Various Powers) Act 1967 s 28; the City of London (Various Powers) Act 1968 s 3 (amended by the Representation of the People Act 1983 s 206, Sch 9 Pt I); and the City of London (Various Powers) Act 1969 s 12.

4 'Qualifying date' in respect of an election to be held during the 12 months following 15 November in any year is 15 June in that year: City of London (Various Powers) Act 1957 s 6(2).

5 *ie* aged 18 years or over at the date of the poll: see ELECTIONS AND REFERENDUMS vol 15(3) (2007 Reissue) PARA 110.

6 See the City of London (Various Powers) Act 1957 s 6(1) (amended by the Local Government Finance Act 1988 s 137, Sch 12 Pt I para 1; and the Local Government Elections (Changes to the Franchise and Qualification of Members) Regulations 1995, SI 1995/1948, reg 4). As to wards see PARA 31 ante; and ELECTIONS AND REFERENDUMS vol 15(3) (2007 Reissue) PARA 10.

7 See the City of London (Various Powers) Act 1957 s 6(1) (as amended: see note 6 supra). As to the right to vote and legal incapacity see ELECTIONS AND REFERENDUMS vol 15(3) (2007 Reissue) PARA 110 et seq.

8 As to British subjects see BRITISH NATIONALITY, IMMIGRATION AND ASYLUM.

9 See the City of London (Various Powers) Act 1957 s 6(1) (as amended: see note 6 supra).

10 See ibid s 7 (amended by the City of London (Various Powers) Act 1968 s 3(2), (3); and by virtue of the Decimal Currency Act 1969 s 10(1)). As to objections to the lists of ward electors see *Ex p Biggs* (1960) Times, 20 January, DC. As to the Town Clerk see PARA 58 post.

11 See the City of London (Various Powers) Act 1957 s 9 (amended by the Representation of the People Act 1983 Sch 8; and by virtue of the City of London (Various Powers) Act 1968 s 3(2), (3)). The Mayor's and City of London Court is the county court for the City of London: see the Courts Act 1971 s 42; and COURTS.

12 See the Representation of the People Act 1983 s 197(1) (amended by the Representation of the People (Variation of Limits of Candidates' Election Expenses) Order 2001, SI 2001/535, art 4); and ELECTIONS AND REFERENDUMS vol 15(3) (2007 Reissue) PARAS 278-279. As to the power to vary the maximum amount see the Representation of the People Act 1983 s 197(3) (amended by the Representation of the People Act 1985 s 24, Sch 4 para 67). As to candidates' expenses at elections in Common Hall see PARA 56 note 13 post.

13 See the Representation of the People Act 1983 s 196 (amended by the Representation of the People Act 1985 s 28, Sch 5). As to rating see RATING AND COUNCIL TAX. In other cases the expenses must be met out of the City's Cash: see the Representation of the People Act 1983 s 196 (as so amended). As to the City's Cash see PARA 78 post.

## UPDATE

### 41 City elections

TEXT AND NOTE 12--For '£242' read '£266': 1983 Act s 197(1) (amended by the Representation of the People (Variation of Limits of Candidates' Election Expenses) (City of London) Order 2005, SI 2005/153).

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#### **42. Resignation from corporate office.**

A person elected to a corporate office<sup>1</sup> may at any time by writing signed by him and delivered to the Town Clerk of the City of London resign the office<sup>2</sup>. In such a case, a vacancy is declared, and the vacancy is filled in the same manner as vacancies caused by death<sup>3</sup>. Any person resigning a corporate office is re-eligible unless disqualified to hold the office<sup>4</sup>.

1 For this purpose, 'corporate office' means the office of any common councilman or of any person elected in Common Hall: City of London (Various Powers) Act 1900 s 58. As to the offices which are so elected, and as to the Common Hall, see PARA 56 post. As to common councilmen see PARAS 51-52 post.

2 Ibid s 59(1).

3 Ibid s 59(2). As to the filling of vacancies in the office of common councilman see PARA 52 post.

4 Ibid s 59(3). As to disqualifications for the office of common councilman see PARA 52 post.

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### **43. Freedom of the City of London.**

The modes of admission to the freedom of the City of London<sup>1</sup> are: (1) by servitude, which may be obtained on satisfactory completion of an apprenticeship to a freeman according to the custom of London; (2) by patrimony, obtainable by the child of a freeman, born after the parent's admission as a freeman; (3) by redemption or purchase, which is obtained by anyone nominated by two members of the Court of Aldermen<sup>2</sup> or the Court of Common Council<sup>3</sup>, or by two liverymen and approved by the Court of Common Council, or by a person who is free of a livery company<sup>4</sup> and presented by that company and approved by the Court of Aldermen<sup>5</sup>. In all these cases, the candidate must be of full age<sup>6</sup>. It is customary to confer the freedom also by honorary presentation upon a resolution of the Court of Common Council<sup>7</sup>.

1 Before the nineteenth century the freedom of the City of London conferred upon a holder the exclusive right to trade by wholesale and retail in the City, and other valuable privileges. Now its legal significance is that it is one of the qualifications for election to the offices of common councilman and alderman and for being an elector of the Common Hall: see PARAS 48, 52, 56 post. As to freemen generally see PARA 39 ante; and LOCAL GOVERNMENT vol 69 (2009) PARA 111.

2 As to the Court of Aldermen see PARAS 47-50 post.

3 As to the Court of Common Council see PARAS 51-55 post.

4 As to freemen of the livery companies see CORPORATIONS vol 9(2) (2006 Reissue) PARA 1309.

5 There is a fee for admission, unless the applicant's name appears on the current ward list for the City.

6 See The Corporation of London, Origin, Constitution, Powers and Duties (1953) pp 220-221. The candidate need not necessarily be of British nationality. The ceremony conferring the freedom on an individual contains a Declaration of Allegiance which is slightly different for those who do not owe personal allegiance to the Sovereign but to the state or head of state of another country.

7 As it is inappropriate to confer the freedom on a foreign head of state it is usual to present an address of welcome to such dignitaries when officially visiting the City: see The Corporation of London, Origin, Constitution, Powers and Duties (1953) pp 221-222.

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## ***B. THE LORD MAYOR OF LONDON***

### **44. Election of the Lord Mayor of London.**

The election of the Lord Mayor of London<sup>1</sup> takes place in Guildhall on Michaelmas day in each year, unless that day falls on a Saturday or Sunday, in which case the election is held on the following Monday<sup>2</sup>. The liverymen of the City of London in Common Hall<sup>3</sup> assembled choose, from among the aldermen who have filled the office of sheriff<sup>4</sup>, two candidates, and of these the Court of Aldermen<sup>5</sup> appoints one to the office of Lord Mayor for the next ensuing year<sup>6</sup>. Royal approval to the appointment is received from the Lord Chancellor<sup>7</sup>, usually early in October. The presentation and swearing of the Lord Mayor takes place in the Queen's Bench Division of the High Court or before the judges of that division on the second Saturday in November in each year<sup>8</sup>. The Lord Mayor takes office on the occasion of his admission at Guildhall on the preceding day<sup>9</sup>.

1 The title 'Mayor' dates from the twelfth century and 'Lord Mayor' from the thirteenth century. The prefix 'Right Honourable' became usual in the fourteenth century: see the Statement as to the Origin, Constitution and Functions of the Corporation of London (1974) p 6. These titles evolved and were not bestowed by any prior conferment. The right to appoint a mayor was confirmed by a charter of 1215 which provided that the person chosen should be faithful, discreet and fit for government, should be presented for the sovereign's approval, should take an oath of office and should be subject to annual election.

2 Act of the Common Council of 22 March 1973.

3 As to the Common Hall see PARA 56 post.

4 As to aldermen see PARA 47-50 post. As to sheriffs of the City of London see PARA 31 note 8 ante, 56 post; and SHERIFFS vol 42 (Reissue) PARAS 1109-1110.

5 As to the Court of Aldermen see PARAS 47-50 post.

6 Within 14 days of election, subject to a penalty of £1,000, the Lord Mayor must signify in writing his consent to accept office: Act of Common Council of 25 September 1800.

A person is disqualified from holding office as Lord Mayor so long as he is a coroner or deputy coroner for the City of London: City of London Municipal Elections Act 1849 s 8A (added by the Coroners Act 1988 s 36(1), Sch 3 para 1).

7 As to the Lord Chancellor see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARAS 477-497.

8 City of London (Various Powers) Act 1959 s 5. The manner of presentation and swearing is that formerly accustomed in the Court of Exchequer: see s 5.

This is the occasion of the Lord Mayor's show. The date was formerly 9 November (unless a Sunday) (see the Supreme Court of Judicature (Consolidation) Act 1925 s 223 (repealed)), but was changed to a Saturday in order to minimise traffic congestion.

9 However, he is not regarded as clad with the full authority of his office until the swearing is complete.

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#### **45. Vacation of office of the Lord Mayor of London.**

Should the office of Lord Mayor of London<sup>1</sup> become vacant by death or otherwise, the corporation usually suspends all important business until the election of a successor has been completed. Meanwhile, where necessary, the senior alderman acts as deputy<sup>2</sup>.

1 As to the election of the Lord Mayor of London see PARA 44 ante.

2 As to the aldermen see PARAS 47-50 post.

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#### **46. Duties and privileges of the Lord Mayor of London.**

On the demise of the Sovereign, the Lord Mayor of London<sup>1</sup> is summoned to attend the meeting of the Privy Council, and signs the declaration of the successor to the throne<sup>2</sup>.

In the City of London he has precedence over every subject of the Crown. He is head of the City Lieutenancy<sup>3</sup>, and has the privilege of recommending to the Sovereign the names of persons to fill vacancies therein. He is, by custom, perpetual Escheator of the City and Southwark and Admiral of the Port of London<sup>4</sup>.

By custom the Lord Mayor of London is the Chief Magistrate of the City<sup>5</sup>, although the Lord Mayor and aldermen of the City of London may not now be justices of the peace unless appointed by the Lord Chancellor<sup>6</sup> in accordance with the Justices of the Peace Act 1997<sup>7</sup>. The Lord Mayor of London is entitled to sit as judge of the Central Criminal Court with any judge of the High Court or any circuit judge or recorder<sup>8</sup>.

By ancient custom the Lord Mayor tenders the City Sword to the Sovereign when she enters the City on state occasions, in token acknowledgement of her overriding authority. The Sovereign touches the sword and, by that gesture, returns it to the Lord Mayor with implied permission to carry it before her whilst she is in the City. Also by ancient custom the permission of the Lord Mayor is sought for the passage of troops through the City, and he receives quarterly, under the Sovereign's sign manual, the password of the Tower of London. As spokesman for the citizens, he is entitled to the right of special access to the Sovereign. He receives an annual salary out of the City's Cash<sup>9</sup>.

The Lord Mayor summons and presides over the Court of Aldermen<sup>10</sup>, the Court of Common Council<sup>11</sup>, the Common Hall<sup>12</sup> and the Court of Husting<sup>13</sup>. None of these can be held but by his permission and direction, and the business to be transacted is entirely under his control. If he cannot attend on any occasion he must appoint as deputy, under his seal, an alderman who has passed the chair.

1 As to the election of the Lord Mayor of London see PARA 44 ante.

2 As to these and other privileges and duties see the Report of the Royal Commission on the Amalgamation of the City and County of London 1894 (C 7493); and The Corporation of London, Origins, Constitution, Powers and Duties (1953).

3 As to the Lieutenancy for the City of London see LOCAL GOVERNMENT vol 69 (2009) PARA 116.

4 This title probably arises from the jurisdiction enjoyed by the corporation until 1857 as Conservators of the River Thames. As to the Conservators of the River Thames, whose functions are now exercisable by the Environment Agency, see ENVIRONMENTAL QUALITY AND PUBLIC HEALTH vol 45 (2010) PARA 342.

5 The Lord Mayor and aldermen were justices of the peace for the City of London by virtue of a charter granted by George II dated 25 August 1741. The title of Chief Magistrate of the City was expressly preserved by the Justices of the Peace Act 1968 s 1(2), Sch 2 (repealed) and by the Justices of the Peace Act 1997 s 23 (repealed).

6 As to the Lord Chancellor see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARAS 477-497.

7 See the Access to Justice Act 1999 s 76(1). See further MAGISTRATES.

8 See the Supreme Court Act 1981 s 8(3). The Central Criminal Court is the name by which the Crown Court is known when it sits in the City of London: see s 8(3). See further COURTS.

9 As to the City's Cash see PARA 78 post.

10 As to the Court of Aldermen see PARAS 47-50 post.

11 As to the Court of Common Council see PARAS 51-55 post.

12 As to the Common Hall see PARA 56 post.

13 As to the Court of Husting see COURTS.

## **UPDATE**

### **46 Duties and privileges of the Lord Mayor of London**

TEXT AND NOTE 7--Justices of the Peace Act 1997 repealed: Courts Act 2003 s 6(4), Sch 10.

NOTE 8--Supreme Court Act 1981 now cited as Senior Courts Act 1981: Constitutional Reform Act 2005 Sch 11 para 1 (in force 1 October 2009: SI 2009/1604).



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### ***C. THE COURT OF ALDERMEN***

#### **47. Constitution and functions of the Court of Aldermen.**

The Court of Aldermen consists of 25 aldermen, including the Lord Mayor of London<sup>1</sup>, one elected for each of the city wards<sup>2</sup>.

The Court of Aldermen is a court of record, and sits in public<sup>3</sup>. The meetings are convened by summons from the Lord Mayor, who presides. The quorum is 13 members, besides the Lord Mayor.

The court elects the Lord Mayor from two candidates elected in Common Hall<sup>4</sup>, and elects the Recorder<sup>5</sup>. It exercises jurisdiction over the livery companies of the City<sup>6</sup>.

1 As to the Lord Mayor of London see PARAS 44-46 ante.

2 The ward of Bridge Without has never elected a common councilman or an alderman. The aldermanry of the ward was filled by the senior alderman who had passed the chair unless he expressly declined, in which case it was offered to the next in seniority. If all the aldermen above the chair refused, the Common Council of the City of London could elect any freeman to the office: Acts of the Common Council of 20 September 1711 and 20 May 1725. The ward was created in 1550 when the City of London purchased the rights of the Crown in Southwark, but Southwark (which is now included in a London borough) was never incorporated in the City. By an Act of the Common Council of 9 February 1978 the ward of Bridge Without was amalgamated with the ward of Bridge as the ward of Bridge and Bridge Without on the date on which the office of alderman of Bridge Without next became vacant. Accordingly, after the retirement of the then incumbent in July 1978 no further appointment was made to the office and the number of aldermen was reduced to the present number of 25.

3 As to courts of record see COURTS.

4 See PARAS 44 ante, 56 post.

5 As to the Recorder see PARA 57 post.

6 As to the livery companies of the City see CORPORATIONS vol 9(2) (2006 Reissue) PARA 1305 et seq.

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#### **48. Qualifications of aldermen and tenure of office.**

An alderman must be a freeman of the City of London<sup>1</sup> not already an alderman, and a British subject<sup>2</sup>. He must also be a suitable person to be a magistrate in the City<sup>3</sup>. He holds office for life<sup>4</sup> unless he resigns or is removed from office for just and reasonable cause<sup>5</sup>. However, a convention has developed for aldermen to surrender office after holding it for not more than six years, and in these circumstances they may stand for re-election in their wards.

Where a person is disqualified and ceases to hold office, the Court of Aldermen must forthwith adjudge the office to be vacant<sup>6</sup>.

1 As to the freedom of the City see PARA 43 ante.

2 Ordinance of 16 October 1413. As to British subjects see BRITISH NATIONALITY, IMMIGRATION AND ASYLUM. By an Act of the Common Council of 1714 an alderman need not reside in nor have any voting qualification for his ward.

3 Acts of Common Council of 10 September 1998 and 4 June 2001. As to aldermen as justices of the peace see PARA 50 post.

4 On election an alderman engages to resign his office on reaching the age of 75 years.

5 17 Ric 2 c 11 (London Aldermen) (1393).

6 See the City of London Municipal Elections Act 1849 s 9 (amended by the Statute Law (Repeals) Act 1989). As to disqualification see the City of London Municipal Elections Act 1849 s 9 (as so amended); the Representation of the People Act 1983 s 191 (as amended); and ELECTIONS AND REFERENDUMS vol 15(3) (2007 Reissue) PARA 30. As to disqualification from holding office as an alderman whilst a coroner or deputy coroner for the City of London see the City of London Municipal Elections Act 1849 s 8A (added by the Coroners Act 1988 s 36(1), Sch 3 para 1).

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#### **49. Election of aldermen on vacancies.**

If an alderman dies, is disqualified or offers to surrender his office the Lord Mayor of London<sup>1</sup> must within 14 clear days summon the Court of Aldermen<sup>2</sup>, to which the vacancy is reported. An election is held in order to fill the vacancy, the procedure for which is specified in Acts of Common Council<sup>3</sup>.

1 As to the Lord Mayor of London see PARAS 44-46 ante.

2 As to the constitution of the Court of Aldermen see PARA 47 ante.

3 Act of the Common Council of 14 July 1960 (amended by an Act of 4 June 2001); Act of Common Council of 10 September 1998. As to elections generally see PARA 41 ante.

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## **50. Powers and duties of aldermen.**

Each alderman may appoint a deputy from among the common councilmen for his ward to assist him in the rule and government of his ward<sup>1</sup>. By custom an alderman upon election becomes a justice of the peace for the City of London<sup>2</sup>, although aldermen may not now be justices of the peace unless appointed by the Lord Chancellor<sup>3</sup> in accordance with the Justices of the Peace Act 1997<sup>4</sup>. The presence of at least two aldermen is necessary for a quorum of the Court of Common Council<sup>5</sup>. The number of aldermen on each standing committee of the Common Council is laid down in standing orders or determined by the Common Council.

Any alderman is entitled to sit as a judge of the Central Criminal Court with any judge of the High Court or any circuit judge or recorder<sup>6</sup>.

1 Act of Common Council of 6 December 1712. In some wards two deputies may be appointed. A deputy may execute the greater part of the ward duties of the alderman, except statutory duties.

2 The Lord Mayor and aldermen were justices of the peace for the City of London by virtue of a charter granted by George II dated 25 August 1741.

3 As to the Lord Chancellor see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARAS 477-497.

4 See the Access to Justice Act 1999 s 76(1). See further MAGISTRATES.

5 As to the Court of Common Council see PARAS 51-55 post.

6 See the Supreme Court Act 1981 s 8(3). The Central Criminal Court is the name by which the Crown Court is known when it sits in the City of London: see the Supreme Court Act 1981 s 8(3). See further COURTS.

## **UPDATE**

### **50 Powers and duties of aldermen**

TEXT AND NOTE 4--Justices of the Peace Act 1997 repealed: Courts Act 2003 s 6(4), Sch 10.

NOTE 6--Supreme Court Act 1981 now cited as Senior Courts Act 1981: Constitutional Reform Act 2005 Sch 11 para 1 (in force 1 October 2009: SI 2009/1604).

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## ***D. THE COURT OF COMMON COUNCIL***

### **51. Constitution of the Court of Common Council.**

The expressions 'the Common Council', 'the Common Council of the City of London', 'the Mayor, aldermen and commons of the City of London' and any similar expressions used in any enactment<sup>1</sup> mean the Mayor, aldermen and commons of the City of London in Common Council assembled<sup>2</sup>. The Court of Common Council, as it is often styled, consists of the Lord Mayor of London<sup>3</sup>, the aldermen<sup>4</sup> and the common councilmen who are chosen annually by the electors of 25 wards at a ward mote held on the first Friday in December<sup>5</sup>. The nominations are made at or before a ward mote and, if there is a contest, the election normally takes place the next day by ballot<sup>6</sup>.

1 For these purposes, 'enactment' includes any general or local Act, order, byelaw, regulation, rule, scheme or other instrument made under any Act: City of London (Various Powers) Act 1958 s 4(1).

2 Ibid s 5. This definition applies for the purposes of the City of London (Various Powers) Act 1958 and any other enactment passed before or after its commencement: see s 5.

Public general Acts concerned with local government and affecting the City refer to 'the Common Council' defined as 'the Common Council of the City' (see eg the Local Government Act 1972 s 270(1)), whereas the local Acts promoted by the corporation continue to refer to 'the Corporation' defined as 'the mayor and commonalty and citizens of the city of London acting by the Common Council' (see the City of London (Various Powers) Act 1952 s 2; the City of London (Various Powers) Act 1958 s 10; the City of London (Various Powers) Act 1959 s 4(1); the City of London (Various Powers) Act 1960 s 4(1); the City of London (Various Powers) Act 1961 s 4(1); the City of London (Various Powers) Act 1962 s 2(1); the City of London (Various Powers) Act 1963 s 4(1); the City of London (Various Powers) Act 1965 s 3(1); the City of London (Various Powers) Act 1967 s 3(1); the City of London (Various Powers) Act 1968 s 2(1); the City of London (Various Powers) Act 1969 s 3(1); the City of London (Various Powers) Act 1970 s 2(1); the City of London (Various Powers) Act 1971 s 2(1); the City of London (Various Powers) Act 1973 s 2(1); the City of London (Various Powers) Act 1977 s 2(1); the City of London (Various Powers) Act 1979 s 2(1); the City of London (Various Powers) Act 1987 s 2(1); and the City of London (Various Powers) Act 1990 s 2(1)). For practical purposes there is probably no distinction between the Common Council and the corporation as so defined. The corporation is perhaps a more apt way of referring to that body in all its capacities and not just its capacity as a local authority. The corporation also acts through the Court of Aldermen and the Common Hall: see PARA 40 ante. As to the powers and duties of the Common Council see PARA 54 post.

3 As to the Lord Mayor of London see PARAS 44-46 ante.

4 As to the aldermen see PARAS 47-50 ante.

5 See the Act of the Common Council of 10 October 1963; and the Act of the Common Council of 7 July 1973. If there is a contest, the election takes place on the following Monday by ballot. Casual vacancies are dealt with at a ward mote as they arise; and, if there is a contest, the election normally takes place the next day by ballot.

A ward mote is an assembly of the inhabitants of a ward for the purpose of local government and the election of ward officers. The number of common councilmen for each ward is determined in accordance with Acts of the Common Council of 27 November 1952 and 4 October 1973. As to the wards see PARA 31 ante.

6 City of London Ballot Act 1887 ss 2, 3, 5 (s 2 amended by the City of London (Various Powers) Act 1987 ss 25, 36, Schedule Pt IV; and the City of London Ballot Act 1887 s 5 amended by the City of London (Various Powers) Act 1954 s 17(5); the City of London (Various Powers) Act 1957 s 11(2); and the City of London (Various Powers) Act 1969 s 12). If the following day falls on a Saturday, Sunday, Christmas Day, Good Friday, any bank holiday or a day appointed for public thanksgiving or mourning, the election is held on the first day thereafter

which is not one of those days: City of London (Various Powers) Act 1954 s 17(1), (2). The election can also be postponed by reason of the illness etc of an alderman: s 17(3). As to elections generally see PARA 41 ante.

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## **52. Qualifications of common councilmen and filling of vacancies.**

Unless disqualified by virtue of any enactment<sup>1</sup>, a person is qualified for election as a common councilman<sup>2</sup> if at the date of nomination and at the date of election, he is a freeman of the City of London<sup>3</sup> and is of full age and a British subject<sup>4</sup> or a citizen of the European Union<sup>5</sup> and:

- 120 (1) is registered in the list of persons entitled to vote at any ward election<sup>6</sup>; or
- 121 (2) owns freehold or leasehold land in the City<sup>7</sup>; or
- 122 (3) has during the whole of the 12 months preceding the date of nomination, and has until the date of election, resided in the City<sup>8</sup>.

A peer may be elected as a common councilman<sup>9</sup>.

When a vacancy occurs in the course of the year, the ward clerk informs the Lord Mayor of London<sup>10</sup>, who issues his precept for a ward mote<sup>11</sup> for the election of a successor, and the return is sent to the Town Clerk.

Before he exercises his office, each common councilman must subscribe to a declaration at the ward mote, or before the Lord Mayor or an alderman of the City<sup>12</sup>, or in the Common Council, or before any justice of the peace<sup>13</sup>.

1 The disqualifications for the office of common councilman are the same as those for that of alderman: see PARA 48 ante. A person is not disqualified for membership of the Common Council or any of its committees by reason only of the fact that he rents a house from it: see the Housing Act 1985 s 618(3); and HOUSING vol 22 (2006 Reissue) PARA 9.

2 A person is not qualified for election to the Common Council as a common councilman except in accordance with these provisions: City of London (Various Powers) Act 1957 s 5(2).

3 As to the freedom of the City see PARA 43 ante.

4 As to British subjects see BRITISH NATIONALITY, IMMIGRATION AND ASYLUM.

5 See the City of London (Various Powers) Act 1957 s 5(1) (amended by the City of London (Various Powers) Act 1967 s 28; and the Local Government (Changes to Franchise and Qualification of Members) Regulations 1995, SI 1995/1948, reg 3(4)).

6 City of London (Various Powers) Act 1957 s 5(1)(a). As to ward lists see PARA 41 ante.

7 Ibid s 5(1)(b).

8 Ibid s 5(1)(c).

9 City of London (Various Powers) Act 1946 s 10.

10 As to the Lord Mayor of London see PARAS 44-46 ante.

11 As to ward motes see PARA 51 note 5 ante.

12 As to the aldermen see PARAS 47-50 ante.

13 Statement as to the Origin, Constitution and Functions of the Corporation of London (1974) p 11.





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### **53. Meetings of the Common Council.**

The Court of Common Council is convened at the discretion of the Lord Mayor of London<sup>1</sup>, but seven members may requisition him to call a court at any time. The Lord Mayor or his locum tenens must preside at all meetings. A quorum consists of 40 members, of whom two must be aldermen. The proceedings are regulated by standing orders, and provisions of the Local Government Act 1972 relating to meetings and access to documents<sup>2</sup> apply to meetings of the Common Council<sup>3</sup>.

Minutes of the proceedings of all meetings of the Common Council must be drawn up and signed by the Town Clerk, and any minute purporting to be so signed is to be received in evidence without further proof<sup>4</sup>. Until the contrary is proved, all meetings of the Common Council in respect of the proceedings of which a minute has been so signed are deemed to have been duly convened, and all members present are deemed to have been duly qualified<sup>5</sup>.

1 As to the Lord Mayor of London see PARAS 44-46 ante.

2 I.e. the Local Government Act 1972 ss 100A-100K (as added and amended): see LOCAL GOVERNMENT vol 69 (2009) PARA 661 et seq.

3 See ibid s 100J(1)(c) (as added); and LOCAL GOVERNMENT vol 69 (2009) PARA 661.

4 City of London (Various Powers) Act 1954 s 6(1). As to proof of proceedings by means of certified copies of minutes see s 7; the Local Government (Miscellaneous Provisions) Act 1976 s 41 (as amended); and LOCAL GOVERNMENT vol 69 (2009) PARA 575.

5 City of London (Various Powers) Act 1954 s 6(2).

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#### **54. Powers and duties of the Common Council.**

The Common Council of the City of London appoints all officers of the corporation<sup>1</sup> except those appointed by the Court of Aldermen<sup>2</sup> or the Common Hall<sup>3</sup>. Any enactment<sup>4</sup> which confers or imposes any functions upon the Common Council in its capacity as a local authority is to be construed as conferring or imposing those functions on the corporation in the like capacity<sup>5</sup>. The Common Council may exercise all functions vested in the corporation in that capacity. The common seal of the corporation may not be affixed without the direction of the Common Council<sup>6</sup>.

1 As to city officers see PARAS 57-58 post.

2 As to the Court of Aldermen see PARAS 47-50 ante.

3 As to the Common Hall see PARA 56 post.

4 'Enactment' includes any general or local Act, order, byelaw, regulation or scheme made under any Act from time to time in force in the City of London: City of London (Various Powers) Act 1954 s 3.

5 Ibid s 18 (substituted by the City of London (Various Powers) Act 1958 s 15). As to the relationship between the corporation and the Common Council of the City of London see also PARA 51 ante.

6 See PARA 40 note 2 ante.

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## **55. Committees of the Common Council.**

The Common Council of the City of London has the powers of a local authority with respect to the appointment of and delegation of functions to committees, sub-committees and joint committees with other local authorities<sup>1</sup> and the making of standing orders with respect to the functions and proceedings of committees<sup>2</sup>.

In the case of an equality of votes at a meeting of a committee the presiding member has a casting vote<sup>3</sup>. The proceedings of a committee are not invalidated by any vacancy among its number or defect in the qualification of any of the members<sup>4</sup>. A common councilman who is a member of a committee ceases to be a member of the committee on ceasing to be a common councilman<sup>5</sup>. A committee constituted before a general election of common councilmen continues to discharge its functions in routine or urgent matters until its members' successors are appointed or until the appointment of the committee is terminated<sup>6</sup>.

1 See the Local Government Act 1972 s 101(13) (as amended); and LOCAL GOVERNMENT vol 69 (2009) PARA 23. As to the power to appoint and delegate functions to committees see ss 101-106 (as amended); and LOCAL GOVERNMENT vol 69 (2009) PARA 369 et seq. So far as the City of London (Various Powers) Act 1944 s 6 authorised the establishment of and the delegation of functions to committees, it has ceased to have effect by virtue of the Local Government Act 1972 s 101(8). The disqualifications for election as a common councilman or alderman (see PARAS 48, 52 ante) apply to membership of committees and sub-committees of the Common Council: s 104(4). As to delegation generally see PARA 60 post.

2 See *ibid* s 101(13) (as amended); and LOCAL GOVERNMENT vol 69 (2009) PARA 23. As to the power to make standing orders see s 106; and LOCAL GOVERNMENT vol 69 (2009) PARA 373. See also the City of London (Various Powers) Act 1944 s 7.

3 *Ibid* s 8(1). This applies whether or not he voted or was entitled to vote in the first instance.

4 *Ibid* s 8(4).

5 City of London (Various Powers) Act 1954 s 5(1). He retains his committee membership, however, if re-elected to the Common Council within four days of ceasing to be a common councilman: s 5(1) proviso.

6 *Ibid* s 5(2).

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## ***E. THE COMMON HALL***

### **56. Constitution and functions of the Common Hall.**

The full style of the Common Hall is a Meeting or Assembly of the Mayor, Aldermen and Liverymen of the several companies<sup>1</sup> of the City of London in Common Hall assembled. It consists of the Lord Mayor of London<sup>2</sup>, 13 aldermen<sup>3</sup> at least, the sheriffs<sup>4</sup> (or one of them) and persons who are both freemen of the City of London<sup>5</sup> and liverymen of one year's standing<sup>6</sup>. It normally meets twice in each year<sup>7</sup>. On Michaelmas Day<sup>8</sup> it meets to nominate two aldermen for the office of Lord Mayor<sup>9</sup> and on Midsummer Day<sup>10</sup> it elects the sheriffs<sup>11</sup>, the chamberlain<sup>12</sup>, the bridge masters and the auditors. Initially election is by a show of hands but a poll may be demanded. The poll is conducted by ballot<sup>13</sup>, and must take place on the fourteenth day after the demand, providing that day is not a Saturday, Sunday, Christmas Day, Good Friday, bank holiday or a day appointed for public thanksgiving or mourning, in which case the poll must be held on the first day thereafter which is not one of those days<sup>14</sup>.

1 As to the livery companies of the City of London see CORPORATIONS vol 9(2) (2006 Reissue) PARA 1305 et seq.

2 As to the Lord Mayor of London see PARAS 44-46 ante.

3 As to the aldermen see PARAS 47-50 ante.

4 As to the sheriffs see PARA 31 note 8 ante; and SHERIFFS vol 42 (Reissue) PARAS 1109-1110.

5 As to the freedom of the City see PARA 43 ante.

6 11 Geo 1 c 18 (City of London Elections) (1724) s 14.

7 The Lord Mayor may summon a Common Hall at other times if he thinks it desirable for the discussion of matters of public interest.

8 If this day falls on a Saturday or Sunday, the election is held on the Monday next following: Act of the Common Council of 22 March 1973.

9 See PARA 44 ante.

10 See note 8 supra.

11 The election of the sheriffs requires the approval of Her Majesty, which is signified by warrants under the seal of the Chancellor of the Exchequer: see the Sheriffs Act 1887 s 33(2) (as amended); and SHERIFFS vol 42 (Reissue) PARA 1110.

12 See PARA 57 note 3 post.

13 See the City of London Ballot Act 1887 ss 2, 3 (s 2 amended by the City of London (Various Powers) Act 1987 ss 25, 36, Schedule Pt IV). Lists of voters for elections in Common Hall are prepared by the Town Clerk: see the City of London Ballot Act 1887 s 4; and the City of London (Various Powers) Act 1968 s 3 (amended by the Representation of the People Act 1983 s 206, Sch 9 Pt I). As to the maximum amount of candidates' expenses at elections in Common Hall see the Representation of the People Act 1983 s 197(2) (as amended); and ELECTIONS AND REFERENDUMS vol 15(3) (2007 Reissue) PARA 275 et seq. As to elections in the City of London see generally para 41 ante.

14 City of London Ballot Act 1887 s 5 (amended by the City of London (Various Powers) Act 1954 s 17(5); the City of London (Various Powers) Act 1957 s 11(2); and the City of London (Various Powers) Act 1969 s 12).



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## ***F. CITY OFFICERS***

### **57. Judicial officers.**

The Recorder of London is elected by the Court of Aldermen<sup>1</sup>. The Common Serjeant is a Crown appointment<sup>2</sup>. The Chamberlain<sup>3</sup> is appointed by the Court of Common Hall<sup>4</sup>, and the City Coroner by the Court of Common Council<sup>5</sup>.

<sup>1</sup> Any person who, being appointed Recorder of London after 1 January 1972, is appointed by Her Majesty to exercise judicial functions is, by virtue of that appointment, a circuit judge: see the Courts Act 1971 s 16(5), Sch 2 para 2(1). The persons then holding office as Recorder of London and Common Serjeant became circuit judges on 1 January 1972: see Sch 2 para 1(1). As to circuit judges see COURTS. As to the Court of Aldermen see PARAS 47-50 ante.

<sup>2</sup> Any person who, after 1 January 1972, is appointed Common Serjeant is, by virtue of that appointment, a circuit judge: see *ibid* Sch 2 para 2(2). See also note 1 *supra*.

<sup>3</sup> The Chamberlain is treasurer of the funds of the City corporation and keeps the accounts. As to City finance see PARA 78 post. He also keeps the roll of freemen and admits to the freedom of the City: see PARA 43 ante.

<sup>4</sup> As to the Common Hall see PARA 56 ante.

<sup>5</sup> See the Coroners Act 1988 s 1 (as amended); and CORONERS vol 9(2) (2006 Reissue) PARA 908. As to the Court of Common Council see PARAS 51-55 ante.

## **UPDATE**

### **57 Judicial officers**

NOTE 1--1971 Act Sch 2 para 1(1) repealed: Statute Law (Repeals) Act 2004.

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## **58. Municipal officers.**

The Common Council of the City of London<sup>1</sup> is under the same duty with regard to the appointment of appropriate officers for the discharge of its functions as local authorities generally<sup>2</sup>, and has the same power to place its staff at the disposal of other local authorities<sup>3</sup>.

The Common Council appoints officers such as the Town Clerk<sup>4</sup>, the Comptroller of the Chamber and Bridge House Estates and City Solicitor<sup>5</sup>, the Remembrancer<sup>6</sup> and the Secondary<sup>7</sup>.

1 As to the Common Council of the City of London see PARAS 51-55 ante.

2 See the City of London (Various Powers) Act 1977 s 19. As to the appointment of staff see the Local Government Act 1972 s 112 (as amended); and LOCAL GOVERNMENT vol 69 (2009) PARA 425.

3 See the City of London (Various Powers) Act 1977 s 19. As to the power to place staff at the disposal of other local authorities see the Local Government Act 1972 s 113 (as amended); and LOCAL GOVERNMENT vol 69 (2009) PARA 380.

4 The duties of the Town Clerk resemble those of town clerks elsewhere. Certain electoral functions of the Secondary were transferred to the Town Clerk by the City of London (Various Powers) Act 1968 s 3 (amended by the Representation of the People Act 1983 s 206, Sch 9 Pt I). The Town Clerk is keeper of the records.

5 The Comptroller is Vice-Chamberlain, has charge of the rent rolls and is responsible for conveyancing and providing other legal services for the corporation. The Bridge House Estates are corporate property, and a registered charity. The Bridge House Estates are used by the Corporation of the City of London to maintain London Bridge, Blackfriars Bridge, Southwark Bridge, Tower Bridge and the London Millennium footbridge, and for various charitable purposes: see the Charities (The Bridge House Estates) Order 1995, SI 1995/1047; and the Charities (The Bridge House Estates) Order 2001, SI 2001/4017.

6 The Remembrancer is responsible for the parliamentary work of the corporation and deals with ceremonial functions of various kinds.

7 The Secondary's full title is Secondary and Under Sheriff and High Bailiff of Southwark. He performs the legal duties appertaining to the office of sheriff: see PARA 31 note 8 ante.

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## **(2) FUNCTIONS**

### **59. In general.**

Except where functions have been made exercisable by the Greater London Authority<sup>1</sup> or its functional bodies<sup>2</sup>, each London borough council<sup>3</sup> generally exercises in relation to its area those functions of local authorities under public general Acts that are exercisable as respects areas in England but outside Greater London by the council of a county or district or in Wales by a county council or county borough council<sup>4</sup>. Some public general Acts conferring functions on local authorities have been modified in relation to London borough councils. In addition, various local Acts confer functions either on London borough councils generally or on particular London borough councils.

Similarly, the Common Council of the City of London<sup>5</sup> falls within the definition of a local authority for the purposes of many of the public general Acts relating to local government<sup>6</sup>, and exercises local authority functions. Some provisions are expressed to apply to London borough councils and to the Common Council of the City of London while others apply to the Common Council of the City of London as if it were a London borough council<sup>7</sup>.

1 As to the Greater London Authority see PARA 79 et seq post.

2 As to the functional bodies see PARAS 213-218 post.

3 As to the constitution of London borough councils see PARA 35 et seq ante. As to the London boroughs see PARA 30 ante.

4 For the meaning of 'local authority' for the purposes of public general Acts see LOCAL GOVERNMENT vol 69 (2009) PARA 23. As to areas and authorities in England and Wales see LOCAL GOVERNMENT vol 69 (2009) PARA 22 et seq. As to local authority functions, powers and duties see LOCAL GOVERNMENT vol 69 (2009) PARA 460 et seq. As to the discharge of functions see LOCAL GOVERNMENT vol 69 (2009) PARA 369 et seq.

5 As to the Common Council of the City of London see PARAS 51-55 ante.

6 See LOCAL GOVERNMENT vol 69 (2009) PARA 23.

7 It cannot, however, be assumed that a provision that applies to a London borough council will necessarily apply also to the Common Council of the City of London nor can it be assumed, if it does so apply, that it will apply in the same way as it applies to a London borough council.

## **UPDATE**

### **59 In general**

TEXT AND NOTES--As to local authority economic assessments see LOCAL GOVERNMENT.



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## **60. Delegation of functions in Greater London.**

The provisions relating to discharge of local authority functions<sup>1</sup> apply to London borough councils<sup>2</sup> and the Common Council of the City of London<sup>3</sup>, as do the provisions relating to contracting out<sup>4</sup>. There are also provisions that relate specifically to London<sup>5</sup>.

The Common Council of the City of London and the council of any London borough which is adjacent to the City of London may agree together for the discharge by that borough council, as agent for the Common Council, of such functions of the Common Council as may be specified in the agreement<sup>6</sup>.

Any of the following authorities, namely the London borough councils, the Common Council of the City of London and the London Fire and Emergency Planning Authority<sup>7</sup>, may for the better performance of their respective functions, agree with one or more of the others of those authorities and any other local authority<sup>8</sup> whose area is contiguous with any part of Greater London<sup>9</sup> for: (1) the undertaking by one party for another of any administrative, clerical, professional, scientific or technical services<sup>10</sup>; (2) the use or maintenance<sup>11</sup> by one party of any vehicle, plant, equipment or apparatus of another party and, if it appears convenient, the services of any staff employed in connection therewith<sup>12</sup>; (3) the carrying out of works of maintenance by one party in connection with land or buildings for the maintenance of which another party is responsible<sup>13</sup>.

1     le the Local Government Act 1972 Pt VI (ss 101-109) (as amended): see LOCAL GOVERNMENT vol 69 (2009) PARA 370 et seq. For the purposes of Pt VI (as amended), 'local authority' includes, inter alia, a London borough council, the Common Council of the City of London, the Sub-Treasurer of the Inner Temple and the Under Treasurer of the Middle Temple: see ss 101(13), 270(1) (both as amended); and LOCAL GOVERNMENT vol 69 (2009) PARA 23. As to joint arrangements for the discharge of functions see PARA 61 post.

2     As to the constitution of London borough councils see PARA 35 et seq ante.

3     As to the Common Council of the City of London see PARAS 51-55 ante.

4     As to contracting out see the Deregulation and Contracting Out Act 1994 Pt II (ss 69-79) (as amended); the Local Government (Contracts) Act 1997; and LOCAL GOVERNMENT vol 69 (2009) PARA 407 et seq. See also the Local Authorities (Goods and Services) Act 1970; and LOCAL GOVERNMENT vol 69 (2009) PARA 495. As to local authority contracts see PARA 62 post; and LOCAL GOVERNMENT vol 69 (2009) PARA 492 et seq.

5     See the text and notes 6-13 infra.

6     London Government Act 1963 s 5(2).

7     As to the London Fire and Emergency Planning Authority see PARA 217 post; and FIRE SERVICES vol 18(2) (Reissue) PARA 17.

8     The London Government Act 1963 s 5(3) (as amended) refers to a local authority within the meaning of the Local Government Act 1933, but this Act has been repealed: see now the definition in the Local Government Act 1972 s 270(1) (as amended); and LOCAL GOVERNMENT vol 69 (2009) PARA 23.

9     London Government Act 1963 s 5(3) (s 5(3) amended by the Local Government Act 1985 ss 84, 102, Sch 14 para 40(a), Sch 17; the Education Reform Act 1988 s 237, Sch 13 Pt I; and the Greater London Authority Act 1999 s 328, Sch 29 Pt I para 4). As to Greater London see PARA 29 ante.

10    London Government Act 1963 s 5(3)(a).

11    For these purposes, 'maintenance' includes minor renewals, improvements and extensions: *ibid* s 5(3).

12 Ibid s 5(3)(b).

13 Ibid s 5(3)(c).

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## **61. Joint arrangements between London borough councils.**

Each of the London borough councils<sup>1</sup> and the Common Council of the City of London<sup>2</sup> have the powers of local authorities generally to make arrangements for their functions to be exercised jointly and to appoint joint committees<sup>3</sup>. In some instances express statutory provision is made for the joint exercise of functions<sup>4</sup>. Thus, for example, the Road Traffic Act 1991 requires the London borough councils, the Common Council of the City of London and Transport for London<sup>5</sup> to establish a single joint committee to appoint parking adjudicators<sup>6</sup>.

In pursuance of powers conferred by the Local Government Act 1985<sup>7</sup>, the Secretary of State by order established four authorities<sup>8</sup>, namely the West London Waste Authority<sup>9</sup>, the North London Waste Authority<sup>10</sup>, the East London Waste Authority<sup>11</sup> and the Western Riverside Waste Authority<sup>12</sup> to discharge specified waste disposal functions in their respective areas<sup>13</sup>. The area of each joint waste disposal authority is comprised of the areas of the authority's constituent councils<sup>14</sup>.

1 As to the constitution of London borough councils see PARA 35 et seq ante.

2 As to the Common Council of the City of London see PARAS 51-55 ante.

3 See the Local Government Act 1972 s 101(5); and LOCAL GOVERNMENT vol 69 (2009) PARA 380. As to joint committees see s 102(1)(b); and LOCAL GOVERNMENT vol 69 (2009) PARA 371.

4 See the text and note 6 infra. The Local Government Act 1985 required the London borough councils and the Common Council of the City of London to establish a joint committee to co-ordinate various matters arising out of the abolition of the Greater London Council under that Act: see s 95. As to the Greater London Council, and its abolition, see PARAS 4-5, 33 ante.

5 As to Transport for London see PARAS 218, 269 et seq post.

6 See the Road Traffic Act 1991 s 73(1) (as substituted); and ROAD TRAFFIC vol 40(2) (2007 Reissue) PARA 895.

7 See the Local Government Act 1985 s 10(1), (2), (4) (s 10(4) amended by the Environmental Protection Act 1990 s 162, Sch 15 para 26). See also LOCAL GOVERNMENT vol 69 (2009) PARA 17.

No person may be a member of a authority established by an order under the Local Government Act 1985 s 10(1) unless he is a member of one of the councils for whose areas the authority is established: s 10(3). An order may make provision for enabling the Secretary of State to require the authority established by the order to submit to him a scheme for the winding-up of the authority and the transfer to those councils of its functions, property, staff, rights and liabilities: see s 10(3). The Secretary of State may by order dissolve any authority established under s 10 (as amended): s 10(5). An order under s 10 (as amended) may contain such supplementary and transitional provisions as the Secretary of State thinks necessary or expedient, including provisions for the transfer of property, staff, rights and liabilities and provisions amending any enactment or any instrument made under any enactment: s 10(6). As to the Secretary of State see PARA 12 note 2 ante.

8 See the Waste Regulation and Disposal (Authorities) Order 1985, SI 1985/1884 (amended by the Radioactive Substances Act 1993 s 50, Sch 6 Pt IV; and by SI 1986/564; SI 2001/1149).

9 The constituent councils are Brent, Ealing, Harrow, Hillingdon, Hounslow, and Richmond-upon-Thames, each of which appoints one member to the waste authority: see the Waste Regulation and Disposal (Authorities) Order 1985, SI 1985/1884, art 2, Sch 1 Pt II.

10 The constituent councils are Barnet, Camden, Enfield, Hackney, Haringey, Islington, and Waltham Forest, each of which appoints two members to the waste authority: see *ibid* Sch 1 Pt III.

11 The constituent councils are Barking and Dagenham, Havering, Newham, and Redbridge, each of which appoints two members to the waste authority: see *ibid* Sch 1 Pt IV.

12 The constituent councils are Hammersmith and Fulham, Kensington and Chelsea, Lambeth, and Wandsworth, each of which appoints two members to the waste authority: see *ibid* Sch 1 Pt V.

13 As to the functions vested in each authority see *ibid* Sch 2 (amended by the Radioactive Substances Act 1993 Sch 6 Pt IV; and by SI 1986/564). As to waste management generally see PARA 66 post; and ENVIRONMENTAL QUALITY AND PUBLIC HEALTH vol 46 (2010) PARA 620 et seq.

14 As to the constituent councils of each authority see notes 9-12 *supra*.

## **UPDATE**

### **61 Joint arrangements between London borough councils**

NOTE 4--1985 Act s 95 repealed: Statute Law (Repeals) Act 2004.

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/2. THE LONDON BOROUGH COUNCILS AND THE CORPORATION OF LONDON/(2) FUNCTIONS/62. Contracts.

## **62. Contracts.**

The general power of local authorities to enter into contracts is dealt with elsewhere in this work<sup>1</sup>. London borough councils<sup>2</sup> and the Common Council of the City of London<sup>3</sup> are local authorities for the purposes of provisions relating to the supply of goods and services<sup>4</sup> and for the purposes of the provisions relating to contracting out<sup>5</sup>. In addition, London borough councils and the Common Council of the City of London have power to make agreements with other authorities for the carrying out of certain functions<sup>6</sup>.

It has been held that a London borough council cannot rely on its charter of incorporation as giving it the capacity of a natural person to enter into contracts but is confined to the powers conferred upon it by statute<sup>7</sup>.

1 See LOCAL GOVERNMENT vol 69 (2009) PARA 492.

2 As to the constitution of London borough councils see PARA 35 et seq ante.

3 As to the Common Council of the City of London see PARAS 51-55 ante.

4 See the Local Authorities (Goods and Services) Act 1970; para 60 ante; and LOCAL GOVERNMENT vol 69 (2009) PARA 495.

5 See the Deregulation and Contracting Out Act 1997 Pt II (ss 69-79) (as amended); the Local Government (Contracts) Act 1997; para 60 ante; and LOCAL GOVERNMENT vol 69 (2009) PARA 407 et seq.

6 See the London Government Act 1963 s 5(3) (as amended); and PARA 60 ante.

7 *Hazell v Hammersmith and Fulham London Borough Council* [1992] 2 AC 1, [1991] 1 All ER 545, HL.

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/2. THE LONDON BOROUGH COUNCILS AND THE CORPORATION OF LONDON/(2) FUNCTIONS/63. Legislative functions.

### **63. Legislative functions.**

The London borough councils<sup>1</sup> have the powers of a local authority under the Local Government Act 1972 to promote or oppose local or personal Bills<sup>2</sup>. The Common Council of the City of London, as a corporation by prescription, also has power to promote or oppose Bills<sup>3</sup>.

A local Bill promoted in Parliament by the council of a London borough or the Common Council of the City of London<sup>4</sup> may include provisions requested by the council of another London borough<sup>5</sup>. This only applies, however, if the council making the request passes a resolution approving the provisions in question and that resolution:

- 123 (1) is passed by a majority of the whole number of the members of the council at a meeting of the council held after 30 clear days' notice of the meeting and of its purpose has been given by advertisement in one or more local newspapers circulating in the area of the council, such notice being given in addition to the ordinary notice required to be given for the convening of a meeting of council<sup>6</sup>; and
- 124 (2) is confirmed by a like majority at a further meeting convened in accordance with head (1) above and held as soon as may be after the expiration of 14 days after the Bill has been deposited in Parliament<sup>7</sup>.

Where a resolution of a council is not confirmed as required by head (2) above, the council must give notice of that fact to the council promoting the Bill which must take all necessary steps for the omission from the Bill of the provisions to which the resolution relates or, if those provisions were requested by other councils, or by the Greater London Authority<sup>8</sup>, of those provisions so far as relating to the council whose resolution has not been confirmed<sup>9</sup>. A council which in accordance with these provisions requests the inclusion of provisions in a Bill promoted by another council may contribute towards the expenses of the other council in connection with the Bill<sup>10</sup>.

London borough councils and the Common Council of the City of London have extensive powers to make byelaws<sup>11</sup>.

1 As to the constitution of London borough councils see PARA 35 et seq ante.

2 See the Local Government Act 1972 s 239 (as amended); and LOCAL GOVERNMENT vol 69 (2009) PARA 572.

3 As to the power of corporations generally to promote Bills see CORPORATIONS vol 9(2) (2006 Reissue) PARA 1233. As to the Common Council of the City of London see PARAS 51-55 ante.

4 In the Local Government Act 1985 s 87 (as amended), references to the council of a London borough include references to the Common Council of the City of London: s 87(5).

5 Ibid s 87(1). It was the practice of the Greater London Council to include in the Greater London Council (General Powers) Bills provisions requested by the London borough councils as well as provisions required by the Council itself. Since the abolition of the Greater London Council, the London Local Authorities Act 1990, the London Local Authorities Act (No 2) 1990, the London Local Authorities Act 1991, the London Local Authorities Act 1994, the London Local Authorities Act 1995, the London Local Authorities Act 1996 and the London Local Authorities Act 2000 have been promoted under the Local Government Act 1985 s 87. Not all the provisions of these Acts have applied, however, to all the London borough councils.

6 Ibid s 87(2)(a).

7 Ibid s 87(2)(b).

8 le under the Greater London Authority Act 1999 s 78: see PARA 212 post.

9 Local Government Act 1985 s 87(3) (amended by the Greater London Authority Act 1999 s 78(8)).

10 Local Government Act 1985 s 87(4).

11 There is a general power to make byelaws for good rule and government and for the prevention and suppression of nuisances: see the Local Government Act 1972 s 235 (as amended); and LOCAL GOVERNMENT vol 69 (2009) PARA 555. See also the City of London (Various Powers) Act 1961 s 39 (amended by the Local Law (City of London) Order 1965, SI 1965/508, art 4, Sch 2). Various powers to make or to enforce byelaws are contained in local Acts: see eg the London County Council (General Powers) Act 1900 Pt V (ss 25-27) (explosives in tunnels).

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/2. THE LONDON BOROUGH COUNCILS AND THE CORPORATION OF LONDON/(2) FUNCTIONS/64. Miscellaneous public services.

#### **64. Miscellaneous public services.**

The London borough councils<sup>1</sup> and the Common Council of the City of London<sup>2</sup> have responsibilities in relation to many public services, which are dealt with elsewhere in this work. These responsibilities include functions relating to burial grounds, cemeteries and crematoria<sup>3</sup>; coroners<sup>4</sup>; food and drug safety<sup>5</sup>; libraries and museums<sup>6</sup>; weights and measures<sup>7</sup>; dangerous trees<sup>8</sup>; and the provision of items such as public clocks and seats<sup>9</sup>.

1 As to the constitution of the London borough councils see PARA 35 et seq ante.

2 As to the Common Council of the City of London see PARAS 51-55 ante.

3 See CREMATION AND BURIAL.

4 See CORONERS. In particular, district coroners are appointed by the London borough councils and by the Common Council of the City of London: see CORONERS vol 9(2) (2006 Reissue) PARA 908.

5 See FOOD; MEDICINAL PRODUCTS AND DRUGS. For example, the London borough councils and the Common Council of the City of London have duties in relation to the control of poisons: see MEDICINAL PRODUCTS AND DRUGS vol 30(2) (Reissue) PARA 284 et seq. The London borough councils and the Common Council of the City of London are food authorities for their areas: see FOOD vol 18(2) (Reissue) PARA 251 et seq.

6 See NATIONAL CULTURAL HERITAGE. The London borough councils and the Common Council of the City of London are library authorities: see NATIONAL CULTURAL HERITAGE vol 77 (2010) PARA 926. As to local authority museums and art galleries see NATIONAL CULTURAL HERITAGE vol 77 (2010) PARA 894.

7 See WEIGHTS AND MEASURES. The London borough councils and the Common Council of the City of London are local weights and measures authorities: see WEIGHTS AND MEASURES vol 50 (2005 Reissue) PARA 20.

8 See LOCAL GOVERNMENT vol 69 (2009) PARA 617.

9 See LOCAL GOVERNMENT vol 69 (2009) PARA 613. London borough councils also have responsibilities in respect of war memorials: see LOCAL GOVERNMENT vol 69 (2009) PARA 614.



Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/2. THE LONDON BOROUGH COUNCILS AND THE CORPORATION OF LONDON/(2) FUNCTIONS/65. Transport, traffic regulation and highways.

## 65. Transport, traffic regulation and highways.

London borough councils<sup>1</sup> and the Common Council of the City of London<sup>2</sup> have various functions, powers and duties relating to transport in London<sup>3</sup>.

In exercising any function, London borough councils and the Common Council of the City of London must have regard to the transport strategy<sup>4</sup> prepared and published by the Mayor of London<sup>5</sup>. They must each prepare a local implementation plan containing proposals for the implementation of the transport strategy<sup>6</sup>, and must submit the plan to the Mayor for his approval<sup>7</sup>. Provision is made for implementation of the plan<sup>8</sup>.

London borough councils and the Common Council of the City of London have power to enter into and carry out agreements for the provision of extra passenger transport services and facilities<sup>9</sup>.

London borough councils and the Common Council of the City of London may establish and operate schemes for imposing road user charges<sup>10</sup> or a workplace parking levy<sup>11</sup>. They may also enter into arrangements with Transport for London<sup>12</sup> for the granting of travel concessions<sup>13</sup>.

The Secretary of State<sup>14</sup> is the highway authority<sup>15</sup> and the traffic authority<sup>16</sup> for all trunk roads in Greater London<sup>17</sup>, whilst Transport for London is the highway authority for all GLA roads and is the traffic authority for all GLA roads and all GLA side roads<sup>18</sup>. London borough councils and the Common Council of the City of London are each the highway authority for all other highways in their respective areas<sup>19</sup> and each is generally the traffic authority for all roads in their respective areas which are not GLA roads or roads for which the Secretary of State is the traffic authority<sup>20</sup>. Thus, London borough councils and the Common Council of the City of London have some functions relating to traffic regulation<sup>21</sup> and relating to highways and street improvement<sup>22</sup>.

1 As to the constitution of the London borough councils see PARA 35 et seq ante.

2 As to the Common Council of the City of London see PARAS 51-55 ante.

3 As to transport in London see PARA 256 et seq post.

4 As to the transport strategy see PARAS 197, 262-268 post.

5 See the Greater London Authority Act 1999 s 144(1); and PARA 263 post. As to the Mayor of London see PARA 81 post.

6 See *ibid* s 145; and PARA 264 post.

7 See *ibid* s 146; and PARA 264 post.

8 See PARAS 264-268 post.

9 See PARA 300 post.

10 See PARA 334 et seq post.

11 See PARAS 334-337, 367 et seq post.

12 As to Transport for London see PARAS 218, 269 et seq post.

- 13 See PARA 396 et seq post.
- 14 As to the Secretary of State see PARA 12 note 2 ante.
- 15 As to highway authorities see generally HIGHWAYS, STREETS AND BRIDGES.
- 16 As to traffic authorities see ROAD TRAFFIC vol 40(2) (2007 Reissue) PARA 731.
- 17 See the Highways Act 1980 s 1(1)(a); the Road Traffic Regulation Act 1984 s 121A(1)(a) (as added); and HIGHWAYS, STREETS AND BRIDGES; ROAD TRAFFIC. For the meaning of 'trunk roads' see HIGHWAYS, STREETS AND BRIDGES vol 21 (2004 Reissue) PARA 50. As to Greater London see PARA 29 ante.
- 18 See the Highways Act 1980 s 1(2A) (as added); the Road Traffic Regulation Act 1984 s 142(4) (as added); and HIGHWAYS, STREETS AND BRIDGES; ROAD TRAFFIC vol 40(2) (2007 Reissue) PARA 726. For the meanings of 'GLA roads' and 'GLA side roads' see ROAD TRAFFIC vol 40(2) (2007 Reissue) PARA 726.
- 19 See the Highways Act 1980 s 1(3) (as amended); and HIGHWAYS, STREETS AND BRIDGES vol 21 (2004 Reissue) PARA 702.
- 20 See the Road Traffic Regulation Act 1984 s 121A(2) (as added); and ROAD TRAFFIC vol 40(2) (2007 Reissue) PARA 731. However, in the application of certain provisions of the Road Traffic Regulation Act 1984 to light signals, Transport for London is deemed to be the traffic authority for all roads (other than trunk roads) in Greater London: see s 74C(2) (as added); and ROAD TRAFFIC vol 40(2) (2007 Reissue) PARA 844.
- 21 As to traffic regulation generally see ROAD TRAFFIC vol 40(2) (2007 Reissue) PARA 718 et seq.
- 22 See HIGHWAYS, STREETS AND BRIDGES vol 21 (2004 Reissue) PARA 817 et seq.

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/2. THE LONDON BOROUGH COUNCILS AND THE CORPORATION OF LONDON/(2) FUNCTIONS/66. Public health, planning and environmental matters.

## **66. Public health, planning and environmental matters.**

London borough councils<sup>1</sup>, the Common Council of the City of London<sup>2</sup>, the Sub-Treasurer of the Inner Temple and the Under Treasurer of the Middle Temple<sup>3</sup> are local authorities for the purposes of the legislation relating to environmental matters and public health<sup>4</sup>. Accordingly, they exercise the environmental and public health functions generally exercised by local authorities, which are dealt with elsewhere in this work<sup>5</sup>. They have functions, for example, relating to litter<sup>6</sup>, statutory nuisances<sup>7</sup> and noise control<sup>8</sup>, the control of air pollution<sup>9</sup>, and the prevention and control of disease<sup>10</sup>. They also have functions relating to waste management<sup>11</sup>. London borough councils, the Common Council of the City of London, the Sub-Treasurer of the Inner Temple and the Under Treasurer of the Middle Temple are waste collection authorities<sup>12</sup>. Four joint waste authorities have been established to discharge certain waste disposal functions<sup>13</sup>, but for any other London borough the waste disposal authority is the council of the borough and for the City of London the waste disposal authority is the Common Council<sup>14</sup>.

London borough councils and the Common Council of the City of London are local planning authorities<sup>15</sup> and thus exercise functions relating to planning and development in their areas<sup>16</sup>. They also have functions relating to building control<sup>17</sup>.

London borough councils and the Common Council of the City of London are generally consulted by the Mayor of London<sup>18</sup> when he prepares his environmental strategies<sup>19</sup>, and may make representations about proposals for the spatial development strategy<sup>20</sup>.

1 As to the constitution of London borough councils see PARA 35 et seq ante.

2 As to the Common Council of the City of London see PARAS 51-55 ante.

3 As to the Sub-Treasurer of the Inner Temple and the Under Treasurer of the Middle Temple see PARA 34 ante.

4 See ENVIRONMENTAL QUALITY AND PUBLIC HEALTH vol 45 (2010) PARA 99.

5 See generally ENVIRONMENTAL QUALITY AND PUBLIC HEALTH vol 45 (2010) PARA 1 et seq; and ENVIRONMENTAL QUALITY AND PUBLIC HEALTH vol 46 (2010) PARA 576 et seq. General legislation relating to public health has been applied to London as it applies elsewhere, but with some modifications: see the London Government Act 1963 s 40, Sch 11 (s 40 amended by the Control of Pollution Act 1974 s 108, Sch 4; the Nursing Homes Act 1975 s 22, Sch 1 para 7, Sch 3; the Registered Homes Act 1984 s 57, Sch 1 para 3; the Local Government Act 1985 s 102, Sch 17; the Water Act 1989 s 190, Sch 27 Pt I; and the Clean Air Act 1993 s 67(3), Sch 6; and the London Government Act 1963 Sch 11 amended by the Local Government Act 1972 s 272(1), Sch 30; the Control of Pollution Act 1974 Sch 4; the Statutes Law (Repeals) Act 1977; the Highways Act 1980 s 343(3), Sch 25; the Building Act 1984 s 133, Sch 6 para 10, Sch 7; the Public Health (Control of Disease) Act 1984 s 78, Sch 3; the Local Government Act 1985 s 9, Sch 6 para 1, Sch 17; the Water Act 1989 Sch 27 Pt I; the Environmental Protection Act 1990 s 162, Sch 16 Pt III; the Water Consolidation (Consequential Provisions) Act 1991 s 3, Sch 3 Pt I; and the Clean Air Act 1993 Sch 6). As from a day to be appointed, the London Government Act 1963 s 40 is further amended by the Care Standards Act 2000 s 117(2), Sch 6. At the date at which this volume states the law, no such day had been appointed. As to the application of public health legislation to London see ENVIRONMENTAL QUALITY AND PUBLIC HEALTH vol 45 (2010) PARA 100.

6 See ENVIRONMENTAL QUALITY AND PUBLIC HEALTH vol 46 (2010) PARA 717 et seq.

7 See NUISANCE vol 78 (2010) PARA 155 et seq.

8 Noise may constitute a statutory nuisance, but there are also specific provisions aimed at noise control: see NUISANCE vol 78 (2010) PARA 165. As to statutory nuisance generally see also NUISANCE vol 78 (2010) PARA 155 et seq.

- 9 See ENVIRONMENTAL QUALITY AND PUBLIC HEALTH vol 45 (2010) PARA 189 et seq.
- 10 See ENVIRONMENTAL QUALITY AND PUBLIC HEALTH vol 46 (2010) PARA 884 et seq.
- 11 See ENVIRONMENTAL QUALITY AND PUBLIC HEALTH vol 46 (2010) PARA 620 et seq.
- 12 See ENVIRONMENTAL QUALITY AND PUBLIC HEALTH vol 46 (2010) PARA 620. As to waste collection see ENVIRONMENTAL QUALITY AND PUBLIC HEALTH vol 46 (2010) PARA 693 et seq.
- 13 See PARA 61 ante.
- 14 See ENVIRONMENTAL QUALITY AND PUBLIC HEALTH vol 46 (2010) PARA 620. Functions relating to the disposal, keeping or treatment or the collection of waste are transferred from waste disposal authorities to waste disposal companies: see ENVIRONMENTAL QUALITY AND PUBLIC HEALTH vol 46 (2010) PARA 620. As to waste disposal companies see ENVIRONMENTAL QUALITY AND PUBLIC HEALTH vol 46 (2010) PARA 620.
- 15 See the Town and Country Planning Act 1990 ss 1, 336 (s 1 as amended); and TOWN AND COUNTRY PLANNING vol 46(1) (Reissue) PARA 28 et seq.
- 16 See generally TOWN AND COUNTRY PLANNING.
- 17 As to the London Building Acts 1930 to 1982, and as to building control generally, see BUILDING.
- 18 As to the Mayor of London see PARA 81 post.
- 19 See the Greater London Authority Act 1999 s 42; and PARA 178 post. As to the Mayor's biodiversity action plan see PARA 181 post; as to the Mayor's municipal waste strategy see PARAS 182-184 post; as to the London air quality strategy see PARA 185 post; and as to the London ambient noise strategy see PARA 186 post. See also the London Development Agency strategy; and PARA 196 post.
- 20 As to the spatial development strategy see PARAS 189-195 post.

## **UPDATE**

### **66 Public health, planning and environmental matters**

NOTE 2--For control of pollution of water in the London area, see PARA 66A.

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/2. THE LONDON BOROUGH COUNCILS AND THE CORPORATION OF LONDON/(2) FUNCTIONS/66A. Local provisions for control of pollution in the London area.

## 66A. Local provisions for control of pollution in the London area.

It is the duty of the Environment Agency<sup>1</sup> by all lawful and proper means to preserve and maintain as far as may be the flow and purity of the water of the River Thames<sup>2</sup> and its tributaries<sup>3</sup>, and to cause the surface of the river and its tributaries within three miles of the river to be, as far as is reasonably practicable, effectually scavenged of substances liable to putrefaction<sup>4</sup>.

Particular provision is made with regard to:

- 125 (1) the prohibition of sewage and offensive or injurious matter in the river or any tributary<sup>5</sup>;
- 126 (2) cutting or throwing weeds, grass or other vegetation<sup>6</sup>;
- 127 (3) the prohibition of rubbish in the river or any tributary<sup>7</sup>;
- 128 (4) the removal of animal carcasses<sup>8</sup>;
- 129 (5) byelaws<sup>9</sup>; and
- 130 (6) the pollution of underground water<sup>10</sup>.

The Agency may also, by all lawful and proper means, preserve and maintain at all times, as far as may be, the purity of the River Lee and its tributaries<sup>11</sup> and also (subject to the lawful exercise of any rights of taking, impounding or using the water) the flow of the water there<sup>12</sup>. There are specific offences relating to pollution of the water<sup>13</sup>; and provision is made with regard to the construction of culverts<sup>14</sup> and the repair or removal of defective barges<sup>15</sup>.

1 As to the transfer of functions to the Environment Agency see ENVIRONMENTAL QUALITY AND PUBLIC HEALTH vol 45 (2010) PARA 342. As to the Environment Agency see ENVIRONMENTAL QUALITY AND PUBLIC HEALTH vol 45 (2010) PARA 68; and as to its pollution control functions generally see ENVIRONMENTAL QUALITY AND PUBLIC HEALTH vol 45 (2010) PARA 75.

2 'River' means and includes the River Thames from its rise in Gloucestershire to a line drawn across the river from the boundary line between the parishes of Teddington and Twickenham, ie just downstream of Teddington Lock: see the Thames Conservancy Act 1950 s 18.

3 'Tributary' means and includes the whole and every part of any river, stream, watercourse, ditch, cut, dock, canal, channel and water within the Thames catchment area communicating either directly or indirectly with the Thames and whether or not forming part of the main river for the purposes of the Land Drainage Act 1991 (see WATER AND WATERWAYS vol 101 (2009) PARA 574): Thames Conservancy Act 1950 s 18; Interpretation Act 1978 s 17(2)(a).

4 Thames Conservancy Act 1932 s 120 (amended by virtue of the Environment Act 1995 s 120(1), Sch 22 para 233(1)).

5 Anyone who without lawful excuse (1) opens into the river or into any tributary any sewer, drain, pipe or channel by which sewage or any offensive or injurious matter, whether solid or fluid, flows or passes or is likely to flow or pass into the river or tributary; or (2) wilfully causes or knowingly suffers any sewage or any offensive or injurious matter to flow or pass into the river or tributary, is liable to a penalty: see the Thames Conservancy Act 1932 s 123. For exceptions see s 123 proviso. Whenever sewage or any offensive or injurious matter, whether solid or fluid, is caused or suffered to flow or pass into the river or any tributary, the Agency may give notice in writing to the person causing or suffering it to flow or pass, requiring him to discontinue the flow or passage within such time as the notice may specify: see s 124(1) (as amended). The time specified must be not less than three months (see s 124(1) (as amended)); and the time may be extended by another notice (see s 124(2) (as amended)). These provisions do not legalise or permit any nuisance or prejudicially affect any right or remedy exercisable apart from the Thames Conservancy Act 1932: s 131. A person who fails to comply with

the notice by continuing the flow or passage to which the notice refers is liable to a penalty (s 124(4) (as amended)); but when an order to discontinue has been made, and has been complied with, an isolated act of pollution is not necessarily an offence against this provision (cf *Lee Conservancy Board v Leyton UDC* (1906) 70 JP 318, DC).

After the conviction of any person of an offence against these provisions, the Agency, with the sanction of the court which tried the case, may stop up the outlet of any sewer, drain, pipe or channel in respect of which the offence was committed at the expense of the offender, except where the sewer, drain, pipe or channel is vested in an undertaker which has taken or is taking all practicable means to procure the conviction of the actual offender: Thames Conservancy Act 1932 s 124(5) (as amended).

6 Anyone cutting or employing others to cut weeds, grass or other vegetation in the river or in any tributary must remove the matter at once so as to prevent it remaining and decaying in and contaminating the water; and no one may throw or sweep, or employ any one to throw or sweep, any weeds, grass or vegetation into the river or any tributary: *ibid* 129(1), (2). An offender is liable on summary conviction to a penalty not exceeding level 1 on the standard scale: see s 129(3) (as amended), s 242. As to the standard scale see SENTENCING AND DISPOSITION OF OFFENDERS vol 92 (2010) PARA 142.

7 Anyone who without lawful excuse (1) unloads, throws or puts, or causes or suffers to fall, any gravel, or any substance which has been used as ballast, or any stones, earth, mud, ashes, dirt, refuse, soil or rubbish into the river or into any tributary so as to tend either directly or in combination with similar acts of the same or other persons to impede the proper flow or be detrimental to the purity of the water of the river or any tributary; or (2) wilfully causes or knowingly suffers any oil or tar to flow or pass into the river or into any tributary, commits an offence: see s 121(1). He is liable on summary conviction to a penalty not exceeding level 3 on the standard scale, and a daily penalty: see s 121(1) (as amended), s 242. Where any such offence is committed from or out of a vessel, the master and the owner of the vessel are liable to be proceeded against: see s 121(2). However, the master and the owner may not both be punished in respect of the same offence: s 121(2).

If anyone without lawful excuse knowingly puts any gravel, or any substance which has been used as ballast, or any stones, earth, mud, ashes, dirt, refuse, soil or rubbish in any place where it is likely to drain, be blown or pass or be carried by floods or extraordinary tides into the river or any tributary, the Agency may serve notice on him requiring him to remove the matter or to comply with conditions prescribed by the Agency to prevent the matter getting into the river or tributary: s 122(1) (as amended). If the requirements of the notice are not complied with within the period specified in it, the Agency may cause the defaulter to be summoned before a magistrates' court which, if satisfied that the matter is likely to get into the river or any tributary, may order the defaulter to remove the matter or to comply with all or any of the requirements of the notice within a specified period not exceeding one month, and to pay to the Agency its reasonable costs as ascertained by the court and specified in the order: s 122(2) (as amended). Anyone who disobeys the order commits an offence and is liable on summary conviction to a penalty not exceeding level 1 on the standard scale, and to a daily penalty: see s 122(3) (as amended), s 242. Further, the Agency may do the work required and recover its expenses from the defaulter: see s 122(3) (as amended).

8 The Agency may remove the carcase of any dead animal which may be in any tributary and dispose of it as it thinks fit, and may recover the costs so incurred from the owner of the animal: see the Thames Conservancy Act 1950 s 24 (as amended). These provisions do not, however, apply to any part of a tributary to which the Thames Conservancy Act 1932 s 120 (as amended) applies: Thames Conservancy Act 1950 s 24(4).

9 The Environment Agency may make byelaws for (1) preventing sewage or any other offensive or injurious matter, whether solid or fluid, passing into the Thames from or out of any vessel on the Thames above Teddington Lock; and (2) compelling with a view to preventing pollution of the Thames the altering of vessels used on the Thames above Teddington Lock and the providing of such vessels with such sanitary appliances as the Agency may approve: Thames Conservancy Act 1932 s 233(1) (as amended). Byelaws may also be made for many other purposes: see s 233(1) (as amended). The byelaws may impose penalties: see s 234 (as amended).

10 The Agency may take action to prevent, remedy or mitigate the pollution of water in any underground strata: see the Thames Conservancy Act 1972 s 14 (as amended).

11 The River Lee and its tributaries are defined in the Lee Conservancy Act 1868 s 3. They include the River Lee itself from its rise in Bedfordshire to a point on Bow Creek 200 feet below Barking Road Bridge and certain named rivers, brooks and other channels and all streams flowing mediately and immediately into them. Some of the rivers are tidal.

12 See s 89 (as amended).

13 It is an offence (1) to open into the River Lee or any of its tributaries any sewer, drain, pipe or channel with intent or in order to provide for the flow or passage of sewage or other offensive or injurious matter; (2) to cause or without lawful excuse to suffer any sewage or other offensive or injurious matter to flow or pass into

the River Lee or any of its tributaries down or through any sewer, drain, pipe or channel not used for that purpose before April 1869; (3) to open into any cut, dock, canal, ditch or channel communicating with the River Lee or any of its tributaries any sewer, drain, pipe or channel with intent or in order to provide for the flow or passage of sewage or other offensive or injurious matter in such manner that it will be carried or be likely to be carried into the River Lee or any of its tributaries; or (4) to cause or without lawful excuse suffer any sewage or other offensive or injurious matter to flow or pass into any such cut, dock, canal, ditch or channel down or through any sewer, drain, pipe or channel not used for that purpose before April 1869 in such manner that it will be carried or be likely to be carried into the River Lee or any of its tributaries: see s 91 (as amended). The penalty on summary conviction for such an offence is a fine not exceeding level 3 on the standard scale and a daily penalty; and after conviction the Agency may stop up the outlet and recover from the offender all expenses incurred in so doing: see s 91 (as amended). However, it is not a contravention of this provision to construct a sewer etc opening into the River Lee or any of its tributaries if it is constructed and used with the previous written consent of the Agency: see s 14 (as amended). When such sewage or other matter is caused or suffered to flow or pass into the River Lee or any tributary, the Agency must give to the persons causing or suffering it to flow or pass notice to discontinue the flow or passage within such time, being not less than three months, as the notice may specify: see s 92 (as amended).

It is also an offence to place a manure heap or other collection of offensive or injurious matter on the banks so that any such matter will drain or run from it into the River Lee or any tributary (see s 96); and there are also provisions for the prevention of pollution from gravel, stones, earth, mud, ashes, dirt, soil or rubbish, refuse from factories etc and oil or tar (see the Lee Conservancy Act 1900 s 27 (as amended)).

14 Every person who constructs a culvert or other cover over any part of the River Lee or its tributaries must provide, to the reasonable satisfaction of the Agency, one or more manholes or other means of access to the river or its tributary, and the owner of the land upon which the manhole or means of access is provided must maintain it to the Agency's satisfaction: see the Lee Conservancy Act 1938 s 20(1) (as amended). There is a penalty for not complying with a notice requiring compliance with this provision, with a daily penalty for a continuing offence: see s 20(3) (as amended). The Agency is entitled at all times to access to, and to use, the manhole or other means of access to enable it to perform its functions: see s 20(2) (as amended). There is a penalty, with a daily penalty, for hindering or preventing the exercise of this power: see s 20(3) (as amended).

15 The Agency may by written notice require the owner of an unseaworthy or leaky barge used for the carriage of manure or other offensive matter to repair the barge or discontinue its use: Lee Conservancy Act 1900 s 32 (as amended).

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/2. THE LONDON BOROUGH COUNCILS AND THE CORPORATION OF LONDON/(2) FUNCTIONS/67. Education.

## **67. Education.**

London borough councils<sup>1</sup> are the local education authorities for the London boroughs<sup>2</sup> and the Common Council of the City of London<sup>3</sup> is the local education authority for the City of London<sup>4</sup>. Local education authorities have a general responsibility for education in their areas<sup>5</sup>, and must secure that there are sufficient schools available for providing nursery, primary and secondary education<sup>6</sup>. They also have functions in relation to education for persons over the compulsory school age<sup>7</sup>, and in relation to pupil referral units<sup>8</sup>. The functions, powers and duties of local education authorities are fully dealt with elsewhere in this work<sup>9</sup>.

1 As to the constitution of London borough councils see PARA 35 et seq ante.

2 As to the London boroughs see PARA 30 ante.

3 As to the Common Council of the City of London see PARAS 51-55 ante.

4 See the Education Act 1996 s 12(3), (4); and EDUCATION vol 15(1) (2006 Reissue) PARA 20. For the purposes of the Education Act 1996, the City of London is to be treated as including the Inner Temple and the Middle Temple: see s 12(4). As to the City of London see PARA 31 ante; and as to the Temples see PARA 32 ante.

5 See EDUCATION vol 15(1) (2006 Reissue) PARAS 21, 34.

6 See EDUCATION vol 15(1) (2006 Reissue) PARAS 24, 26.

7 See EDUCATION vol 15(1) (2006 Reissue) PARAS 27-28. See also EDUCATION vol 15(1) (2006 Reissue) PARA 30. As to the meaning of 'compulsory school age' see EDUCATION vol 15(1) (2006 Reissue) PARA 15.

8 See EDUCATION vol 15(1) (2006 Reissue) PARA 29. As to pupil referral units see EDUCATION vol 15(1) (2006 Reissue) PARAS 457-464.

9 See generally EDUCATION.



Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/2. THE LONDON BOROUGH COUNCILS AND THE CORPORATION OF LONDON/(2) FUNCTIONS/68. Housing.

## **68. Housing.**

London borough councils<sup>1</sup> are the local housing authorities for the London boroughs<sup>2</sup> and the Common Council of the City of London<sup>3</sup> is the local housing authority for the City of London<sup>4</sup>. Local housing authorities have a duty to consider housing conditions in their areas<sup>5</sup>, and have functions relating to the provision and management of housing accommodation<sup>6</sup>. They have powers and duties to deal with houses which are unfit for human habitation<sup>7</sup>. They also fund and administer the payment of housing benefit<sup>8</sup>. The functions, powers and duties of local housing authorities are fully dealt with elsewhere in this work<sup>9</sup>.

1 As to the constitution of London borough councils see PARA 35 et seq ante.

2 As to the London boroughs see PARA 30 ante.

3 As to the Common Council of the City of London see PARAS 51-55 ante.

4 See the Housing Act 1985 s 1 (as amended); and HOUSING vol 22 (2006 Reissue) PARA 9.

5 See HOUSING vol 22 (2006 Reissue) PARA 220 et seq.

6 As to the provision of housing accommodation by local authorities see HOUSING vol 22 (2006 Reissue) PARA 224 et seq; and as to the management of local authority housing see HOUSING vol 22 (2006 Reissue) PARA 248 et seq.

7 See HOUSING vol 22 (2006 Reissue) PARA 359 et seq.

8 See HOUSING vol 22 (2006 Reissue) PARA 155 et seq. As to housing benefit generally see HOUSING vol 22 (2006 Reissue) PARA 140 et seq.

9 See generally HOUSING. See also BUILDING; LANDLORD AND TENANT.

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/2. THE LONDON BOROUGH COUNCILS AND THE CORPORATION OF LONDON/(2) FUNCTIONS/69. Social services.

## **69. Social services.**

London borough councils<sup>1</sup> are the local social services authorities for the London boroughs<sup>2</sup> and the Common Council of the City of London<sup>3</sup> is the local social services authority for the City of London<sup>4</sup>. Social services authorities are responsible for the provision of community care services and the making of welfare arrangements in their areas<sup>5</sup>. They also have responsibilities in relation to residential care homes<sup>6</sup>. The functions, powers and duties of local social services authorities are fully dealt with elsewhere in this work<sup>7</sup>.

1 As to the constitution of London borough councils see PARA 35 et seq ante.

2 As to the London boroughs see PARA 30 ante.

3 As to the Common Council of the City of London see PARAS 51-55 ante.

4 See SOCIAL SERVICES AND COMMUNITY CARE vol 44(2) (Reissue) PARA 1005.

5 See SOCIAL SERVICES AND COMMUNITY CARE vol 44(2) (Reissue) PARA 1012 et seq.

6 See SOCIAL SERVICES AND COMMUNITY CARE vol 44(2) (Reissue) PARA 1042 et seq.

7 See generally SOCIAL SERVICES AND COMMUNITY CARE.

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/2. THE LONDON BOROUGH COUNCILS AND THE CORPORATION OF LONDON/(2) FUNCTIONS/70. Schemes for grants to voluntary organisations.

## **70. Schemes for grants to voluntary organisations.**

A scheme for the making of grants to eligible voluntary organisations<sup>1</sup> may be made for Greater London by the constituent councils, that is to say the London borough councils<sup>2</sup> and the Common Council of the City of London<sup>3</sup>. Any such scheme must provide:

- 131 (1) for the grants to be made by one of the constituent councils designated for that purpose by the scheme<sup>4</sup>; and
- 132 (2) for the other constituent councils to contribute to the expenditure incurred by the designated council in making the grants or otherwise in discharging its functions under the scheme<sup>5</sup>.

The Secretary of State<sup>6</sup> may by order<sup>7</sup> provide that if:

- 133 (a) a scheme requires the total expenditure to be incurred under the scheme<sup>8</sup> in any financial year to be approved in accordance with the scheme by some or all of the constituent councils<sup>9</sup>; and
- 134 (b) the total expenditure to be incurred in any financial year is not approved as required by the scheme by the date specified in relation to that financial year in the order<sup>10</sup>,

then the constituent councils are deemed all to have given their approval for the financial year to total expenditure of an amount equal to the amount that was approved or, as the case may be, deemed to have been approved for the preceding financial year<sup>11</sup>.

The total expenditure incurred under a scheme by a designated council in Greater London in any financial year (including the amounts recoverable under the scheme from other councils) must not exceed such amount as is for the time being prescribed for Greater London by an order made by the Secretary of State<sup>12</sup>.

A scheme may not provide for the making of grants before the beginning of the financial year after that in which it is made and continues in force until the end of at least two financial years after that in which it is made<sup>13</sup>.

A scheme may, in the absence of agreement between all the constituent councils, be made by a majority of those councils so as to be binding on all of them but a council must not be designated without its consent<sup>14</sup>. Each constituent council in Greater London must exercise its functions under these provisions, and under any scheme made under these provisions, with due regard to the needs of the whole of Greater London and each scheme must provide for those needs to be kept under review<sup>15</sup>.

1 For the purposes of the Local Government Act 1985 s 48 (as amended), 'voluntary organisation' means a body the activities of which are carried on otherwise than for profit but does not include any public or local authority; and 'eligible voluntary organisation' means, in relation to Greater London, a voluntary organisation whose activities will directly or indirectly benefit either the whole of Greater London or any part of it extending beyond the area of any particular constituent council: s 48(11). As to the meaning of 'constituent council' see the text and notes 2-3 infra.

2 As to the constitution of London borough councils see PARA 35 et seq ante.

3 Local Government Act 1985 s 48(1)(a). As to the Common Council of the City of London see PARAS 51-55 ante. A scheme may contain such supplementary provisions as the councils making the scheme think necessary or expedient and (subject to s 48(6): see the text and note 13 infra) may be revoked by those councils (or, in the absence of agreement between all of them, by a majority of those councils) with effect from the end of any financial year after that in which the decision to revoke the scheme is made: s 48(8).

The powers conferred by s 48 (as amended) are not to be regarded as restricting those conferred by the Local Government Act 1972 s 137 (as amended); and, accordingly, the reference to any other enactment in s 137(1) (as amended) is not to include a reference to the Local Government Act 1985 s 48: see s 48(12).

4 Ibid s 48(2)(a).

5 Ibid s 48(2)(b). The constituent councils are required to contribute to any expenditure of the designated council which has been incurred with the approval of at least two-thirds of the constituent councils; and the amounts of the contributions must be determined so that the expenditure in respect of which they are payable is borne by the constituent councils in proportion to the populations of their respective areas: s 48(3). For these purposes, the population of any area is taken to be the number estimated by the Registrar General and certified by him to the Secretary of State by reference to such date as the Secretary of State may from time to time determine: s 48(4).

6 As to the Secretary of State see PARA 12 note 2 ante.

7 As to the order that has been made see the Grants to Voluntary Organisations (Specified Date) Order 1992, SI 1992/2362.

8 Ie in the making of grants and in the discharging by the designated council of its functions under the scheme.

9 Local Government Act 1985 s 48(4A)(a) (s 48(4A) added by the Local Government Finance Act s 105).

10 Local Government Act 1985 s 48(4A)(b) (as added: see note 9 supra).

11 Ibid s 48(4A) (as added: see note 9 supra).

12 Ibid s 48(5). See the Grants to Voluntary Organisations (Greater London) (Expenditure Limit) Order 1991, SI 1991/606 (prescribing £30,155,000 as the maximum amount of total expenditure which might be incurred in the financial year beginning on 1 April 1991 under any scheme for Greater London).

13 Local Government Act 1985 s 48(6).

14 See ibid s 48(7). The council designated by a scheme may by giving not less than 12 months notice to other constituent councils withdraw its consent to act as designated council with effect from the end of any financial year not earlier than the second financial year after that in which the scheme was made; and in that event the scheme terminates when the withdrawal takes effect: s 48(9).

15 Ibid s 48(10).

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/2. THE LONDON BOROUGH COUNCILS AND THE CORPORATION OF LONDON/(2) FUNCTIONS/71. Documents and records.

## **71. Documents and records.**

The provisions of the Local Government Act 1972 relating to arrangements for the custody of documents<sup>1</sup>, the deposit of documents with the proper officer<sup>2</sup>, the inspection of documents<sup>3</sup>, photographic copies of documents<sup>4</sup>, public notices<sup>5</sup>, the service of notices on<sup>6</sup> and by<sup>7</sup> local authorities and the authentication of documents<sup>8</sup> apply to the London borough councils<sup>9</sup> as local authorities<sup>10</sup>. Similar provisions apply to the Corporation of the City of London with respect to the service of notices by and on the corporation, and the authentication of documents<sup>11</sup>. Resolutions and minutes of proceedings of the London borough councils, their precursors and the Common Council of the City of London<sup>12</sup> may be evidenced in the same way as those of other local authorities<sup>13</sup>.

At any time after a period of six years from the date of receipt by a London borough council or the Common Council of the City of London<sup>14</sup> of an application made or referred to it for a decision, determination, grant, consent, agreement, approval, direction or permission, the council may destroy any documents<sup>15</sup> received by it in connection with the application<sup>16</sup>, but it must retain the application and the copy of any plan approved by it in connection with the application, together with any related certificate, consent, permit or other document issued pursuant to an enactment<sup>17</sup>. A London borough council or the Common Council of the City of London may make and retain microfilm recordings<sup>18</sup> of its documents<sup>19</sup>, and may, with some exceptions<sup>20</sup>, destroy any of its documents of which it has made and retained microfilm recordings<sup>21</sup>. An enlargement<sup>22</sup> of a microfilm recording of a document is deemed for all purposes to be a copy of that document<sup>23</sup> and, if the document has been destroyed, is receivable in evidence for any purpose for which the document would have been receivable in any proceedings in any court in England or Wales if an officer of the council designated by it for the purpose certifies that the document has been destroyed, that a microfilm recording of the document has been made and that the enlargement is an enlargement of a microfilm recording of the document<sup>24</sup>.

Provision is made in relation to the acquisition and deposit of records of local interest<sup>25</sup>.

1 See the Local Government Act 1972 s 224 (as amended); and LOCAL GOVERNMENT vol 69 (2009) PARA 536.

2 See *ibid* s 225 (as amended); and LOCAL GOVERNMENT vol 69 (2009) PARA 538. As to the proper officer see LOCAL GOVERNMENT vol 69 (2009) PARA 431.

3 See *ibid* s 228 (as amended); and LOCAL GOVERNMENT vol 69 (2009) PARAS 538-539.

4 See *ibid* s 229 (as amended); and LOCAL GOVERNMENT vol 69 (2009) PARAS 539-540.

5 See *ibid* s 232 (as amended); and LOCAL GOVERNMENT vol 69 (2009) PARA 577.

6 See *ibid* s 231 (as amended); and LOCAL GOVERNMENT vol 69 (2009) PARA 578.

7 See *ibid* s 233 (as amended); and LOCAL GOVERNMENT vol 69 (2009) PARA 576.

8 See *ibid* s 234 (as amended); and LOCAL GOVERNMENT vol 69 (2009) PARA 574.

9 As to the constitution of London borough councils see PARA 35 *et seq* ante.

10 See LOCAL GOVERNMENT vol 69 (2009) PARA 23.

11 See the City of London (Various Powers) Act 1954 ss 8-10. As to the Corporation of the City of London see PARA 40 et seq ante.

12 As to the Common Council of the City of London see PARAS 51-55 ante.

13 See the Local Government (Miscellaneous Provisions) Act 1976 ss 41, 44(1) (s 44(1) as amended); and LOCAL GOVERNMENT vol 69 (2009) PARAS 23, 575.

14 The provisions of the Greater London Council (General Powers) Act 1969 ss 36-38 (except s 37(5)) are extended to London borough councils and the Common Council of the City of London by s 39(1). However, ss 36, 37 are not applied to Hounslow London Borough Council, and s 38 applies to that council only in so far as it relates to the use of equipment for the printing or reproduction of documents, including equipment for microfilm recording: s 39(1) proviso. See, however, the Hounslow Corporation Act 1968 ss 48, 49.

15 'Document' includes the whole or part of a register, book, record, letter, map, plan, drawing, photograph or other document, and any notice, licence, certificate, scheme or order made, passed or granted by the council, and references to documents of a council are references to documents belonging to or permanently in the possession of the council: Greater London Council (General Powers) Act 1969 s 39(2).

16 Ibid s 36(1). The functions exercisable by a council under s 36(1) are in addition to and not in derogation of its functions under any other enactment: s 36(2). For these purposes, 'enactment' means any enactment, whether public, general or local, and includes any order, byelaw, rule, regulation, scheme or other instrument having effect by virtue of an enactment: s 3.

17 Ibid s 36(1) proviso.

18 'Microfilm recording' means a reproduction of a document on film or other material which is a product of photography or any similar process and is in general beyond legibility with the naked eye, and any reference to a microfilm recording of a document is to be deemed to include a reference to any copy subsequently made of such microfilm recording: ibid s 39(2).

19 Ibid s 37(1).

20 It may not under this power destroy records deposited with it under the Public Records Act 1958 (see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 837 et seq), or acquired or accepted by it under the Local Government (Records) Act 1962 s 2 (as amended) (see LOCAL GOVERNMENT vol 69 (2009) PARA 541): Greater London Council (General Powers) Act 1969 s 37(2) proviso (a).

21 Ibid s 37(2). It must afford a right of access for the public to a microfilm recording of a document which has been destroyed under this power equal to any public right of access to the destroyed document: s 37(2) proviso (b). As to the public right to inspect documents see the text and note 3 supra.

22 'Enlargement' means an enlarged reproduction of a microfilm recording which is legible with the naked eye: ibid s 39(2).

23 Ibid s 37(3).

24 Ibid s 37(4).

25 See the Local Government (Records) Act 1962; and LOCAL GOVERNMENT vol 69 (2009) PARAS 541, 544. See also the City of London (Various Powers) Act 1962 ss 5, 6.

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/2. THE LONDON BOROUGH COUNCILS AND THE CORPORATION OF LONDON/(2) FUNCTIONS/72. Land.

## 72. Land.

For the purpose of preserving a green belt round London<sup>1</sup>, the London borough councils<sup>2</sup> and other local authorities in certain counties near Greater London are given power to acquire land, enter into covenants with owners of land and make financial contributions<sup>3</sup>. Green belt land is subject to restrictions on its use for building<sup>4</sup> and on alienation<sup>5</sup>. A London borough council may enter into agreements with the owners of land, and binding on successors in title, whereby the council is given a right of pre-emption to acquire the land for the purposes of providing an open space or recreation ground<sup>6</sup> or of the green belt round London<sup>7</sup>.

Every undertaking given to a London borough council<sup>8</sup> by the owner of any legal estate in land and every agreement made between one of those councils and any such owner<sup>9</sup> is enforceable not only against the owner joining in the undertaking or agreement but also against his successors in title and any person claiming through or under them<sup>10</sup>. Any person against whom such an undertaking or agreement is enforceable is entitled to a free copy of it<sup>11</sup>. Similar provisions apply to the Corporation of the City of London<sup>12</sup>.

Local planning authorities in Greater London<sup>13</sup> are empowered to enter into agreements with appropriate persons in respect of the proposed development of land, providing for the making of payments to the Common Council of the City of London or the relevant London borough council towards the cost of providing public car parks<sup>14</sup>. Such agreements bind successors in title to the land proposed to be developed as well as the original parties<sup>15</sup>.

1 As to green belt land generally see TOWN AND COUNTRY PLANNING vol 46(2) (Reissue) PARA 938. As to open spaces in London see PARA 73 post.

2 As to the constitution of London borough councils see PARA 35 et seq ante.

3 See the Green Belt (London and Home Counties) Act 1938 ss 2(1), 3 (s 2(1) as amended); the London Government Act 1963 s 59(2); and TOWN AND COUNTRY PLANNING vol 46(2) (Reissue) PARA 938. As to local authority powers in relation to land generally see LOCAL GOVERNMENT vol 69 (2009) PARA 508 et seq.

4 See eg the Green Belt (London and Home Counties) Act 1938 s 10; and TOWN AND COUNTRY PLANNING vol 46(2) (Reissue) PARA 938.

5 See eg *ibid* s 5; and TOWN AND COUNTRY PLANNING vol 46(2) (Reissue) PARA 938.

6 See the Ministry of Housing and Local Government Provisional Order Confirmation (Greater London Parks and Open Spaces) Act 1967 s 1, Schedule, arts 6, 16. This power is not exercisable in respect of any land outside Greater London except with the consent of the council of the county in which the land is situated, but this does not apply to any piece of land in one ownership which is partly within and partly without Greater London and at least one half of which is within Greater London: Schedule, art 16(4). As to Greater London see PARA 29 ante.

7 See the Green Belt (London and Home Counties) Act 1938 s 18; and TOWN AND COUNTRY PLANNING vol 46(2) (Reissue) PARA 938.

8 For these purposes, 'local authority' includes a London borough council: see the Greater London Council (General Powers) Act 1974 ss 2(1), 16(7).

9 Ie an undertaking or agreement: (1) given or made under seal in connection with the land (*ibid* s 16(1)(a)); and (2) expressed to be given or made in pursuance of these provisions (s 16(1)(b)).

10 *Ibid* s 16(1). Undertakings or agreements under s 16 are treated as local land charges: see s 16(2). As to local land charges see LAND CHARGES vol 26 (2004 Reissue) PARA 671 et seq.

There are transitional provisions keeping in force undertakings and agreements given or made pursuant to certain repealed local enactments replaced by s 16: see s 16(5), (6), Sch 2 Pt III, Sch 3 Pt II.

11 Ibid s 16(3).

12 See the City of London (Various Powers) Act 1960 s 33. Section 33 contains no equivalent provision to that contained in the Greater London Council (General Powers) Act 1974 s 16(3) (see the text and note 11 *supra*). As to the Corporation of the City of London see PARA 40 *et seq ante*.

13 London borough councils and the Common Council of the City of London are local planning authorities: see PARA 66 *ante*. As to the Common Council of the City of London see PARAS 51-55 *ante*.

14 See the Greater London Council (General Powers) Act 1973 s 24(1).

15 See *ibid* s 24(2)(a). The agreements are registrable as local land charges (see s 24(2)(b)), and, as regards any payment which is to be made to a council which is not the local planning authority, enure for the benefit of and are enforceable by that council (see s 24(2)(c)). Any person upon whom such an agreement is binding may demand a copy from the local planning authority: s 24(2).



Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/2. THE LONDON BOROUGH COUNCILS AND THE CORPORATION OF LONDON/(2) FUNCTIONS/73. Open spaces.

### **73. Open spaces.**

The London borough councils<sup>1</sup> have functions relating to the provision and maintenance of open spaces<sup>2</sup>. In addition to the open space management powers of local authorities generally, the London borough councils enjoy extensive powers to deal with open spaces under their control and management<sup>3</sup>.

Certain London squares and garden inclosures are protected by statute from development<sup>4</sup>, and the London borough councils and the Common Council of the City of London have power to contribute towards the expenses of providing, reinstating, repairing or maintaining railings for the purpose of improving the amenities of any square, uninclosed land or garden inclosure in their respective areas<sup>5</sup>.

A number of open spaces vested in or under the management of London borough councils or the Common Council of the City of London are commons, and those councils have certain powers in respect of common land for the purpose of providing or improving public enjoyment of the countryside<sup>6</sup>.

Several substantial open spaces, some outside Greater London, are owned and managed by the Common Council of the City of London<sup>7</sup>.

1 As to the constitution of London borough councils see PARA 35 et seq ante.

2 As to open spaces and recreation grounds in London see OPEN SPACES AND COUNTRYSIDE vol 78 (2010) PARA 509. The Open Spaces Act 1906 (except s 14) has effect as if the London borough councils were included among the local authorities to whom it applies: London Government Act 1963 s 58(1) (substituted by the Local Government, Planning and Land Act 1980 s 1(3), Sch 3 para 11). As to the Open Spaces Act 1906 see OPEN SPACES AND COUNTRYSIDE vol 78 (2010) PARA 569 et seq. Provisions relating to the closing of parks have been modified in their application to London borough councils: see the Public Health Acts Amendment Act 1890 s 44 (amended by the Public Health Act 1961 s 53); and the Greater London Council (General Powers) Act 1978 s 12. As to local authority functions and powers in relation to land in London see also PARA 72 ante.

3 See eg the Ministry of Housing and Local Government Provisional Order Confirmation (Greater London Parks and Open Spaces) Act 1967; and OPEN SPACES AND COUNTRYSIDE vol 78 (2010) PARA 509. For these purposes, 'local authority' means a London borough council: Schedule, art 6. The powers conferred by these provisions are in addition to and not in derogation of other powers: Schedule, art 20.

4 See the London Squares Preservation Act 1931; and OPEN SPACES AND COUNTRYSIDE vol 78 (2010) PARA 509. See also the Town Gardens Protection Act 1863; and OPEN SPACES AND COUNTRYSIDE vol 78 (2010) PARA 545 et seq. As to enclosed gardens see the Metropolis Management Act 1855 s 239.

5 See the Greater London Council (General Powers) Act 1972 s 18. The contributions may be by grant or loan: s 18(1). Contributions may be made on such terms as the council may determine; loans may be interest free, the terms may be varied by agreement and the right to repayment of outstanding principal and interest may be waived: see s 18(2).

6 See the Countryside Act 1969 ss 6, 9 (s 6 as amended); and COMMONS vol 13 (2009) PARAS 429, 580.

7 Eg the Common Council has responsibilities in relation to Epping Forest: see the Epping Forest Act 1878.

## **UPDATE**

### **73 Open spaces**

TEXT AND NOTES--As to regulation of metropolitan commons areas see PARA 73A et seq.

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/2. THE LONDON BOROUGH COUNCILS AND THE CORPORATION OF LONDON/(2) FUNCTIONS/73A. Metropolitan commons regulated by scheme.

### **73A. Metropolitan commons regulated by scheme.**

Statutory mechanisms have been established for the regulation of metropolitan commons<sup>1</sup>. No metropolitan common<sup>2</sup>, or any part of such a common, may be otherwise regulated<sup>3</sup> or inclosed<sup>4</sup>. The main object of proceedings for the regulation of metropolitan commons is the establishment of local management with a view to the expenditure of money on the drainage, levelling and improvement of a metropolitan common, and to the making of byelaws and regulations for the prevention of nuisances and the preservation of order on that common by means of a scheme approved by the Secretary of State<sup>5</sup> and subsequently confirmed by Parliament<sup>6</sup>.

1 See the Metropolitan Commons Act 1866, the Metropolitan Commons Amendment Act 1869 and the Metropolitan Commons Act 1878, which are together cited as 'the Metropolitan Commons Acts 1866 to 1898': see the Short Titles Act 1896. The Metropolitan Commons Act 1898 has been repealed, and the *Report of the Royal Commission on Common Land 1955-1958* (Cmd 462) recommended the repeal (without prejudice to existing schemes or to the right of public access) of the remaining Acts.

2 For these purposes, 'common' means: (1) land subject on 10 August 1866 to any right of common; and (2) any land subject to be inclosed under the provisions of the Inclosure Act 1845: Metropolitan Commons Act 1866 s 3 (amended by the Metropolitan Commons Amendment Act 1869 s 2). As to the lands falling within this definition see COMMONS vol 13 (2009) PARA 419. As to the use of the terms 'inclose', 'inclosure' etc see COMMONS vol 13 (2009) PARA 418. As to inclosure generally see COMMONS vol 13 (2009) PARA 418 et seq.

The provisions relating to the regulation of metropolitan commons apply to any common the whole or any part of which was situated within the metropolitan police district as defined on 10 August 1866 (ie the date on which the Metropolitan Commons Act 1866 was passed): s 4. On that date 'metropolitan police district' was defined by the Metropolitan Police Act 1829 ss 4, 34, Schedule and the Metropolitan Police Act 1839 s 2 (all now repealed).

3 Ie under the Commons Act 1876: Commons Act 1876 s 35. As to regulation under the Commons Act 1876 see COMMONS vol 13 (2009) PARA 586 et seq.

4 Ie under the Inclosure Acts 1845 to 1882: Metropolitan Commons Act 1866 s 5 (amended by the Statute Law Revision Act 1893). Applies only to metropolitan commons which are under the control and management of a London borough council: Metropolitan Commons Act 1866 s 5 (amended by the Commons Act 2006 Sch 4 para 1 (in force in relation to England: SI 2007/2584)). An application may, however, be made for consent to the inclosure of portions of any metropolitan common required for widening or improvement of a highway: see the London County Council (General Powers) Act 1960 s 10 (amended by the Local Law (Greater London Council and Inner London Boroughs) Order 1965, SI 1965/540, art 3, Sch 1 para 99).

5 The powers in relation to the regulation of metropolitan commons were originally vested in the Inclosure Commissioners (see the Metropolitan Commons Act 1866) and are now exercisable by the Secretary of State (see COMMONS vol 13 (2009) PARAS 423-424).

6 Metropolitan Commons Act 1866 s 6. See further PARA 73B.

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/2. THE LONDON BOROUGH COUNCILS AND THE CORPORATION OF LONDON/(2) FUNCTIONS/73B. Proposal and preparation of schemes.

### **73B. Proposal and preparation of schemes.**

A memorial for a scheme for the regulation of a metropolitan common<sup>1</sup> may be presented to the Secretary of State<sup>2</sup> by:

- 135 (1) the lord of the manor<sup>3</sup>;
- 136 (2) any commoners<sup>4</sup>;
- 137 (3) the local authority for a district into which any part of the common extends<sup>5</sup>;  
or
- 138 (4) any 12 or more council tax or non-domestic ratepayers<sup>6</sup> who are inhabitants of the parish or parishes in which the common is situated<sup>7</sup>.

After consideration and such examination and inquiry as is thought advisable into the subject matter of the memorial, the Secretary of State may prepare a draft scheme respecting the common or any part of it<sup>8</sup>. Prints of the draft are delivered to the memorialists, the lord of the manor, and the local authority, and the scheme or an abstract of it is published and circulated in such manner as the Secretary of State thinks sufficient for giving information to all parties interested<sup>9</sup>.

Within two months from the first publication of the scheme objections and suggestions in writing may be made to the Secretary of State<sup>10</sup>; after the expiration of that period the Secretary of State may refer the draft scheme to one of his officers who must hold a sitting or sittings in the locality, receive evidence and information, inquire into any objections or suggestions made<sup>11</sup>, and make a written report setting forth the results of the inquiry and whether in his opinion the scheme should be approved without alteration, or with what alterations, if any, giving his reasons, and his opinion upon the objections and suggestions, if any, made at the inquiry<sup>12</sup>.

As soon as may be after the expiration of the said two months or the receipt by the Secretary of State of the officer's report, as the case may be, the Secretary of State must proceed to consider any written objections or suggestions respecting the scheme, and the report, if any, and may finally settle and approve the scheme in such form as he thinks expedient<sup>13</sup>.

1 As to schemes for the regulation of metropolitan commons, and as to the commons to which these provisions apply, see PARA 73A. Regarding the provisions of schemes see *Ratcliff v Jowers*, *Barnes Common Case* (1891) 8 TLR 6 (temporary inclosure on common); *Hoare v Metropolitan Board of Works* (1874) LR 9 QB 296, DC (byelaw may not prejudice interest saved by scheme); *De Morgan v Metropolitan Board of Works* (1880) 5 QBD 155 (no right of public to hold meetings).

2 The powers in relation to the regulation of metropolitan commons were originally vested in the Inclosure Commissioners (see the Metropolitan Commons Act 1866) but are now exercisable by the Secretary of State: see COMMONS vol 13 (2009) PARA 423 et seq.

3 Ibid s 6; Metropolitan Commons Amendment Act 1869 s 3.

4 Metropolitan Commons Act 1866 s 6; Metropolitan Commons Amendment Act 1869 s 3.

5 Metropolitan Commons Act 1866 s 6; Metropolitan Commons Amendment Act 1869 s 3. The local authority for these purposes is: (1) if the common in question is situated wholly or partly within Greater London, the London borough council (or the Common Council of the City of London) within the area of which the whole or part is situate or, where there are two or more boroughs within which parts are situate and the councils of those

boroughs agree that one of them should be the local authority in relation to the whole, that council; (2) if the common is situated wholly or partly within a metropolitan district no part of which is within Greater London, the metropolitan district council; and (3) as to any other metropolitan common, the parish or community council or meeting: see the Metropolitan Commons Act 1866 s 2, Sch 1 (Sch 1 amended by the Local Government Act 1985 ss 16, 102(2), Sch 8 para 10(1), Sch 17; and by virtue of the Local Law (Greater London Council and Inner London Boroughs) Order 1965, SI 1965/540; and by the Local Government Reorganisation (Miscellaneous Provision) (No 4) Order 1986, SI 1986/452). See also the Metropolis Management Act 1855 s 250, Schs A-C (all repealed); the Public Health Act 1875 s 5 et seq (repealed); the Metropolitan Commons Act 1898 (repealed); the Local Government Act 1894 ss 6(1)(a), 19(4), 21(3) (s 21(3) amended by the Local Government Act 1933 ss 307, 308, Sch 11 Pt IV; and by the London Government Act 1963 s 93(1), Sch 18 Pt II); the London Government Act 1963 ss 1, 2, 4 (all as amended); and the Local Government Act 1972 s 179(1), (4). As to the London boroughs and their councils see PARAS 5, 29-30, 35 et seq. As to the City of London and the Common Council see PARAS 31-32. As to areas and authorities in England and Wales see OPEN SPACES AND ANCIENT MONUMENTS vol 34 (Reissue) PARA 295F; and LOCAL GOVERNMENT vol 69 (2009) PARA 22 et seq.

6 Council tax and non-domestic ratepayers are the successors to the 'ratepayers' referred to in the Metropolitan Commons Amendment Act 1869 s 3: see RATING AND COUNCIL TAX vol 39(1B) (Reissue) PARA 1 et seq.

7 Ibid s 3.

8 Metropolitan Commons Act 1866 ss 7, 8.

9 Ibid s 9.

10 Ibid s 10.

11 Ibid s 11. Notice of any sitting by an officer of the Secretary of State must be published at least 14 days beforehand, except in the case of an adjourned sitting: s 11. A sitting may be adjourned by the officer without the personal attendance of the officer at the meeting: Commons Act 1899 s 20.

12 Metropolitan Commons Act 1866 s 12.

13 Ibid s 13. After being certified and sealed by the Secretary of State (s 18), the scheme is printed and published in the same way as the draft scheme (s 19); every scheme must contain a provision for the sale of printed copies thereof, to persons desirous of purchasing them, at a reasonable price to be fixed by the scheme (s 17). The scheme must receive the sanction of Parliament, so a confirmatory Bill is introduced, as in the case of provisional orders (Metropolitan Commons Act 1866 s 22); if in its progress through Parliament a petition is presented against the Bill, it is referred to a select committee, and the petitioner or petitioners can appear and oppose (s 23).

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/2. THE LONDON BOROUGH COUNCILS AND THE CORPORATION OF LONDON/(2) FUNCTIONS/73C. Conclusiveness of maps and scheme.

### **73C. Conclusiveness of maps and scheme.**

A scheme for the regulation of a metropolitan common<sup>1</sup> and any map or plan referred to in the scheme and deposited with it are conclusive as to the limits and extent of the common and, after the passing of the confirmatory Act<sup>2</sup>, the owner of land included in the scheme cannot successfully assert his title thereto and contend that the land is not subject to the jurisdiction of the conservators<sup>3</sup>.

1 As to schemes for the regulation of metropolitan commons, and as to the commons to which these provisions apply, see PARA 73A.

2 As to the requirement for confirmation see PARA 73B.

3 *Cook v Mitcham Common Conservators* [1901] 1 Ch 387 (where the owner of land which was included in the memorial and subsequently in the scheme stood by and took no notice of the inquiry or proceedings); and see *Chislehurst Common Conservators v Newton* (1887) [1901] 1 Ch 389n. These cases were distinguished in *Collis v Amphlett* [1918] 1 Ch 232, CA; revsd on another point [1920] AC 271, HL (where, the common being regulated under the Commons Act 1876 (see COMMONS vol 13 (2009) PARA 418 et seq), it was held that the award map was not conclusive). As to the memorial see PARA 73B.

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/2. THE LONDON BOROUGH COUNCILS AND THE CORPORATION OF LONDON/(2) FUNCTIONS/73D. Protection of private rights.

### **73D. Protection of private rights.**

Every scheme for the regulation of a metropolitan common<sup>1</sup> must state what rights, if any, claimed by any person or class of persons are affected by the scheme and to what extent and whether or not such persons or any of them have consented to the scheme<sup>2</sup>. Additionally, no estate, interest, or right of a profitable or beneficial nature in, over or affecting a common<sup>3</sup> may, except with the consent of the person entitled to it, be taken away or injuriously affected without compensation<sup>4</sup> being made or provided for it<sup>5</sup>. Any person claiming any estate, interest or right in, over or affecting a metropolitan common which is the subject of a scheme who is dissatisfied with any determination made or implied by the Secretary of State<sup>6</sup> or by the scheme concerning such estate, interest, or right may appeal to the High Court<sup>7</sup>.

1 As to schemes for the regulation of metropolitan commons, and as to the commons to which these provisions apply, see PARA 72A.

2 Metropolitan Commons Act 1866 s 14. Provision for the giving of consent in connection with Crown lands or land forming part of the possessions of the Duchy of Lancaster or the Duchy of Cornwall has been made: see s 29 (amended by the Statute Law Revision Act 1893).

The absence of a requirement for the consent of the lord of the manor or the commoners in the procedure relating to a scheme for the regulation of a metropolitan common marks an important difference between that procedure and that relating to the regulation of a common under the Inclosure Acts (where such consent is required: see COMMONS vol 13 (2009) PARAS 418, 586), the intention being that under a scheme for the regulation of a metropolitan common private rights will be interfered with as little as possible and only so far as may be necessary for the proper management of the common and its preservation for the enjoyment and recreation of the neighbourhood. In nearly all the schemes which have been confirmed the lords of the manors and the commoners have, however, either been consenting parties or have not opposed. The two exceptions related to: (1) the Banstead commons, where the scheme was confirmed after strong opposition on the part of the owners of the soil in both Houses of Parliament; and (2) Ham Common, where the opposition of the lord of the manor was mainly directed against some common fields being included in the scheme, and to that extent was successful. See also the *Report of the Royal Commission on Common Land 1955-1958* (Cmnd 462) PARA 214. As to the regulation of a common under the Inclosure Acts see COMMONS vol 13 (2009) PARA 418 et seq. As to the requirement for confirmation see PARA 73B.

3 The right to maintain and renew a signpost in front of a public house is such a right: *Hoare v Metropolitan Board of Works* (1874) LR 9 QB 296, DC.

4 Such compensation is to be ascertained and provided in case of difference under the provisions of the Lands Clauses Acts with reference to the compulsory taking or injuriously affecting of lands: see the Metropolitan Commons Act 1866 s 15; the Lands Clauses Consolidation Act 1845 ss 63, 68, as affected by the Lands Tribunal Act 1949 s 1; the provisions of the Land Compensation Acts 1961 and 1973; and COMPULSORY ACQUISITION OF LAND.

5 Metropolitan Commons Act 1866 s 15. Section 15 and the general effect of the Metropolitan Commons Act 1866 were discussed at length by Jessel MR in *A-G v Amhurst* (1879) 23 Sol Jo 443, relating to Hackney Downs and one of the early schemes under the Act, and later schemes have been framed in accordance with the judgment in that case, generally containing a provision that rights of a profitable or beneficial nature are not to be injuriously affected without compensation being made or provided for, and that until the compensation agreed upon or awarded is paid the rights may continue to be exercised.

6 The powers in relation to the regulation of metropolitan commons were originally vested in the Inclosure Commissioners (see the Metropolitan Commons Act 1866) but are now exercisable by the Secretary of State: see COMMONS vol 13 (2009) PARA 423 et seq.

7 See the Inclosure Act 1845 s 56 (amended by the Statute Law Revision Act 1891; and by virtue of the Courts Act 1971 s 56(1), Sch 8 para 2); applied by virtue of the Metropolitan Commons Act 1866 s 16. Such an action must presumably be brought before the confirmation of the scheme by Act of Parliament, since it has

been held that a confirmed scheme is conclusive as to the limits and extent of the common and an owner of land included in it cannot successfully assert his title thereto: *Cook v Mitcham Common Conservators* [1901] 1 Ch 387; *Chislehurst Common Conservators v Newton* (1887) [1901] 1 Ch 389n. Cf *Collis v Amphlett* [1918] 1 Ch 232, CA (revsd on another point [1920] AC 271, HL), where it was held, distinguishing the above cases, that the award map was not conclusive as to boundaries.



Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/2. THE LONDON BOROUGH COUNCILS AND THE CORPORATION OF LONDON/(2) FUNCTIONS/73E. Amendment of schemes.

**73E. Amendment of schemes.**

Schemes for the regulation of metropolitan commons<sup>1</sup> confirmed by Act of Parliament<sup>2</sup> may be subsequently amended where the Secretary of State<sup>3</sup> certifies a scheme of amendment, and in such a case the procedure is the same as in the case of an original scheme<sup>4</sup>.

1 As to schemes for the regulation of metropolitan commons, and as to the commons to which these provisions apply, see PARA 73A.

2 As to the requirement for confirmation see PARA 73B.

3 The powers in relation to the regulation of metropolitan commons were originally vested in the Inclosure Commissioners (see the Metropolitan Commons Act 1866) but are now exercisable by the Secretary of State: see COMMONS vol 13 (2009) PARA 423.

4 Metropolitan Commons Act 1866 s 27.

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/2. THE LONDON BOROUGH COUNCILS AND THE CORPORATION OF LONDON/(2) FUNCTIONS/73F. Expenses of scheme.

### **73F. Expenses of scheme.**

The expenses of the Secretary of State<sup>1</sup> in relation to any memorial<sup>2</sup> or to a scheme for the regulation of a metropolitan common<sup>3</sup> consequent thereon are defrayed by the memorialists, or, if they are willing, by the council tax and non-domestic ratepayers<sup>4</sup> or inhabitants of the parish or district<sup>5</sup>, or of Greater London<sup>6</sup>, or by the local authority<sup>7</sup>, and payment on account or security for such expenses may be required by the Secretary of State<sup>8</sup>. The local authority for a metropolitan common may contribute towards the expenses of executing a scheme, including the payment of any compensation, such amount as it thinks fit, in a gross sum or by annual payments or otherwise<sup>9</sup>.

1 The powers in relation to the regulation of metropolitan commons were originally vested in the Inclosure Commissioners (see the Metropolitan Commons Act 1866) but are now exercisable by the Secretary of State: see COMMONS vol 13 (2009) PARA 423 et seq.

2 As to the presentation of memorials for schemes for the regulation of metropolitan commons see PARA 73B.

3 As to schemes for the regulation of metropolitan commons, and as to the commons to which these provisions apply, see PARA 73A.

4 Council tax and non-domestic ratepayers are the successors to the 'ratepayers' referred to in the Metropolitan Commons Amendment Act 1869 s 3: see RATING AND COUNCIL TAX vol 39(1B) (Reissue) PARA 1 et seq.

5 As to areas and authorities see LOCAL GOVERNMENT vol 69 (2009) PARA 22 et seq.

6 The Metropolitan Commons Act 1866 refers to 'the Metropolis' (without defining the term) but this should be construed as referring to Greater London (which includes the City of London and the Temples): see s 2, Sch 1 (Sch 1 amended by the Local Government Act 1985 ss 16, 102(2), Sch 8 para 10(1), Sch 17; and by virtue of the Local Law (Greater London Council and Inner London Boroughs) Order 1965, SI 1965/540; and the Local Government Reorganisation (Miscellaneous Provision) (No 4) Order 1986, SI 1986/452); the Metropolis Management Act 1855 s 250, Schs A-C (all repealed); and the London Government Act 1963 ss 1, 2, 4 (all as amended); and PARA 29 et seq.

7 For the meaning of 'local authority' see PARA 73B note 5.

8 Metropolitan Commons Act 1866 s 24.

9 Ibid s 25 (amended by the Local Government Act 1985 s 102(2), Sch 17).

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/2. THE LONDON BOROUGH COUNCILS AND THE CORPORATION OF LONDON/(2) FUNCTIONS/73G. Powers of acquisition vested in London borough councils and the Common Council of the City of London.

**73G. Powers of acquisition vested in London borough councils and the Common Council of the City of London.**

A London borough council<sup>1</sup> and the Common Council of the City of London<sup>2</sup> each has, in respect of any common the whole or part of which is within its area, the same powers of buying and holding rights of common annexed thereto as a district council<sup>3</sup> in the case of a suburban common<sup>4</sup>.

1 As to the London boroughs and their councils see PARAS 5, 29-30, 35 et seq.

2 As to the Common Council of the City of London see PARA 51 et seq.

3 The Metropolitan Commons Act 1878 s 2 (as amended) refers to an 'urban sanitary authority', but urban sanitary authorities were renamed urban district councils by the Local Government Act 1894 s 21(1) (repealed), which have subsequently been replaced by district councils (see LOCAL GOVERNMENT vol 69 (2009) PARA 22 et seq).

4 Metropolitan Commons Act 1878 s 2 (amended by the Local Government Act 1985 s 16, Sch 8 para 10(2)). These powers were formerly vested in the Greater London Council.

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/2. THE LONDON BOROUGH COUNCILS AND THE CORPORATION OF LONDON/(2) FUNCTIONS/73H Prohibition on getting of road materials from regulated metropolitan commons.

### **73H Prohibition on getting of road materials from regulated metropolitan commons.**

When a metropolitan common is the subject of a confirmed scheme for the regulation of metropolitan commons<sup>1</sup> no highway authority<sup>2</sup> has power to search for or get gravel, sand, stone or other materials for road repairs from any part of the common which has not been set apart for that purpose with the sanction of Parliament, without the consent of the persons or body who have the regulation or management of the common, or, in default of such consent, without an order of justices in petty sessions for the petty sessions area<sup>3</sup> in which the common is situate, who may in their order prescribe conditions as to the mode of working and the restitution of the surface as they deem expedient<sup>4</sup>.

1 As to schemes for the regulation of metropolitan commons, and as to the commons to which these provisions apply, see PARA 73A. As to the requirement for confirmation see PARA 671.

2 As to the highway authorities see the Highways Act 1980 Pt I (ss 1-9) (as amended); and HIGHWAYS, STREETS AND BRIDGES.

3 As to petty sessions and petty sessions areas see MAGISTRATES vol 29(2) (Reissue) PARA 591 et seq.

4 Commons Act 1876 s 20 (amended by the Statute Law Revision Act 1894; the Statute Law (Repeals) Act 1998; and the Access to Justice Act 1999 s 76(2), Sch 10 para 11). Under the Commons Act 1876 s 20 (as amended) the justices have an absolute discretion as to making or refusing to make an order: *Hayes Common Conservators v Bromley RDC* [1897] 1 QB 321, DC. The provision of an allotment for the supply of materials for the repair of the roads in the parish was usual in inclosures, and is not uncommon in cases of regulation. As to the use of the terms 'inclose', 'inclosure' etc see COMMONS vol 13 (2009) PARA 418. As to inclosure generally see COMMONS vol 13 (2009) PARA 418 et seq.

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/2. THE LONDON BOROUGH COUNCILS AND THE CORPORATION OF LONDON/(2) FUNCTIONS/73I. Exemption from registration.

**73I. Exemption from registration.**

The Secretary of State<sup>1</sup> may exempt from the statutory provisions requiring the registration of common land<sup>2</sup> any land regulated by a scheme for the regulation of metropolitan commons<sup>3</sup>, provided that no rights of common have been exercised over it for at least 30 years and that the owner of the land is known<sup>4</sup>.

1 As to the Secretary of State: see COMMONS vol 13 (2009) PARA 423.

2 Ie the Commons Registration Act 1965; see COMMONS vol 13 (2009) PARA 508 et seq.

3 As to schemes for the regulation of metropolitan commons, and as to the commons to which these provisions apply, see PARA 73A.

4 See the Commons Registration Act 1965 s 11(1), (3); and COMMONS vol 13 (2009) PARA 509.

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/2. THE LONDON BOROUGH COUNCILS AND THE CORPORATION OF LONDON/(2) FUNCTIONS/74. Recreational facilities.

#### **74. Recreational facilities.**

London borough councils<sup>1</sup> and the Common Council of the City of London<sup>2</sup> have the powers of a local authority to provide recreational facilities<sup>3</sup>, such as: (1) indoor facilities consisting of sports centres, swimming pools, skating rinks, tennis, squash and badminton courts, bowling centres, dance studios and riding schools<sup>4</sup>; (2) outdoor facilities consisting of pitches for team games, athletics grounds, swimming pools, tennis courts, cycle tracks, golf courses, bowling greens, riding schools, camp sites and facilities for gliding<sup>5</sup>; and (3) facilities for boating and water ski-ing on inland and coastal waters and for fishing in such waters<sup>6</sup>. They also have the power to provide premises and staff<sup>7</sup>.

London borough councils and the Common Council of the City of London have powers in relation to the provision of entertainments, facilities for dancing, theatres, concert and dance halls, and the maintenance of bands or orchestras<sup>8</sup>.

London borough councils and the Common Council of the City of London are library authorities<sup>9</sup>, and the Corporation of the City of London has some responsibilities relating to museums and historic buildings<sup>10</sup>.

1 As to the constitution of London borough councils see PARA 35 et seq ante.

2 As to the Common Council of the City of London see PARAS 51-55 ante.

3 See the Local Government (Miscellaneous Provisions) Act 1976 ss 19, 44 (both as amended); and LOCAL GOVERNMENT vol 69 (2009) PARA 595.

4 See ibid s 19(1)(a).

5 See ibid s 19(1)(b).

6 See ibid s 19(1)(c).

7 See ibid s 19(1)(d), (e), (f).

8 See the Local Government Act 1972 s 145; and LOCAL GOVERNMENT vol 69 (2009) PARA 596.

9 As to library authorities see the Local Government Act 1972 s 206 (as amended); and NATIONAL CULTURAL HERITAGE vol 77 (2010) PARA 926. As to libraries generally see NATIONAL CULTURAL HERITAGE vol 77 (2010) PARA 906 et seq.

10 Eg the Corporation of the City of London has some functions in relation to the Museum of London under the Museum of London Act 1965: see NATIONAL CULTURAL HERITAGE vol 77 (2010) PARA 857.

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/2. THE LONDON BOROUGH COUNCILS AND THE CORPORATION OF LONDON/(2) FUNCTIONS/75. Licensing of entertainments etc.

## **75. Licensing of entertainments etc.**

The London Government Act 1963 contains a special code for the licensing by London borough councils<sup>1</sup> and the Common Council of the City of London<sup>2</sup> of premises used for the purposes of public dancing<sup>3</sup> or music and any other public entertainment of the like kind and of premises used for the purposes of indoor sports entertainments, boxing and wrestling<sup>4</sup>. Some of these provisions have been applied so as to require the licensing of premises used for the purposes of a public exhibition or other similar public display<sup>5</sup> and so as to require the licensing of entertainment booking offices<sup>6</sup>.

1 As to the constitution of London borough councils see PARA 35 et seq ante.

2 As to the Common Council of the City of London see PARAS 51-55 ante.

3 Any premises, whether or not licensed for the sale of intoxicating liquor, which are used for public entertainment consisting wholly or partly of human posing, are deemed for these purposes to be premises used for public dancing: Greater London Council (General Powers) Act 1978 s 3.

4 See the London Government Act 1963 s 52(3), Sch 12 (s 52(3) amended by the Cinemas Act 1985 s 24(2), Sch 3; and the London Government Act 1963 Sch 12 amended by the Theatres Act 1968 s 19(2), Sch 3; the Courts Act 1971 s 56(2), Sch 9 Pt I; the Local Government Act 1974 ss 35, 42, Sch 6 para 16, Sch 8; the Greater London Council (General Powers) Act 1978 s 4; the Greater London Council (General Powers) Act 1979 s 3; the Local Government (Miscellaneous Provisions) Act 1982 s 1; the Criminal Justice Act 1982 ss 37, 46; the Greater London Council (General Powers) Act 1984 s 4; the Cinemas Act 1985 s 24(2), Sch 3; the Local Government Act 1985 s 16, Sch 8 para 1(1); the Greater London Council (General Powers) Act 1986 s 3; the Fire Safety and Safety of Places of Sport Act 1987 ss 42, 49, Sch 3, Sch 4, Sch 5; the Entertainments (Increased Penalties) Act 1990 s 1; the London Local Authorities Act 1996 s 20; the Public Entertainments Licences (Drug Misuse) Act 1997 s 2; and the Greater London Authority Act 1999 s 328, Sch 29 Pt I para 6). As to theatres and places of entertainment generally see LICENSING AND GAMBLING.

5 See the Greater London Council (General Powers) Act 1966 s 21 (amended by the Cinemas Act 1985 s 24(1), Sch 2 para 8; and the Local Government Act 1985 s 16, Sch 8 para 1(3)).

6 See the Greater London Council (General Powers) Act 1978 s 5 (amended by the Greater London Council (General Powers) Act 1984 s 4(2); and the Local Government Act 1985 Sch 8 para 1(4)).

## **UPDATE**

## **75 Licensing of entertainments etc**

TEXT AND NOTES 1-4--Repealed: Licensing Act 2003 Sch 7. As to premises licences see now Pt 3 (ss 11-59); and LICENSING AND GAMBLING vol 67 (2008) PARA 53 et seq.

TEXT AND NOTES 5, 6--1966 Act s 21 and 1978 Act s 5 further amended: 2003 Act Sch 6 paras 35, 70, Sch 7.

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/2. THE LONDON BOROUGH COUNCILS AND THE CORPORATION OF LONDON/(2) FUNCTIONS/76. Publicity for the amenities and advantages of their areas.

**76. Publicity for the amenities and advantages of their areas.**

Any of the London borough councils<sup>1</sup> and the Common Council of the City of London<sup>2</sup> may, for the purpose of giving publicity to the amenities and advantages of their respective areas<sup>3</sup>:

- 139 (1) enter into and carry into effect agreements for the purpose with any person approved by the Secretary of State<sup>4</sup>;
- 140 (2) make reasonable contributions towards the expenses incurred by any such person in giving effect to any such agreement<sup>5</sup>;
- 141 (3) incur reasonable expenditure on the use of suitable media of advertising<sup>6</sup>; and
- 142 (4) incur reasonable expenditure on the establishment and maintenance of office accommodation for the dissemination of information relating to their respective areas<sup>7</sup>.

1 As to the constitution of London borough councils see PARA 35 et seq ante.

2 As to the Common Council of the City of London see PARAS 51-55 ante.

3 London Government Act 1963 s 73(1) (amended by the Local Government Act 1985 s 102, Sch 16 para 1).

4 London Government Act 1963 s 73(1)(a). The London Government Act 1963 refers to 'the Minister', but his functions have now been transferred to the Secretary of State: see PARA 12 note 2 ante.

5 Ibid s 73(1)(b).

6 Ibid s 73(1)(c).

7 Ibid s 73(1)(d) (amended by the Local Government Act 1985 Sch 16 para 1).



Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/2. THE LONDON BOROUGH COUNCILS AND THE CORPORATION OF LONDON/(2) FUNCTIONS/77. Compensation of staff.

## 77. Compensation of staff.

The London borough councils<sup>1</sup> and the Common Council of the City of London<sup>2</sup> may pay compensation to any of their officers who sustains an injury in the course of his employment<sup>3</sup>, or to the widow, widower or child of any of their officers who, in the course of his employment, dies or sustains an injury resulting in death<sup>4</sup>. The compensation may be paid either by way of a lump sum<sup>5</sup>, or by way of periodical payments of such amounts and payable at such times and for such periods as the paying council may from time to time determine having regard to all the circumstances of the case<sup>6</sup>. The payment of such compensation does not affect any right or claim to damages or compensation which an officer or his widow, widower or child may have against any person other than the council or, except so far as may be agreed when the compensation is granted, against the council<sup>7</sup>.

The London borough councils and the Common Council of the City of London may grant allowances by way of compensation to any person, or in respect of any person, retiring or removed from their service in consequence of the abolition of his office or for the purpose of facilitating improvements in organisation to effect greater efficiency and economy<sup>8</sup>.

1 As to the constitution of London borough councils see PARA 35 et seq ante.

2 As to the Common Council of the City of London see PARAS 51-55 ante.

3 London Government Act 1963 s 75(1)(a) (s 75(1) amended by the Local Government Act 1985 s 102, Sch 17).

4 London Government Act 1963 s 75(1)(b) (as amended: see note 3 supra).

5 Ibid s 75(2)(a).

6 Ibid s 75(2)(b).

7 Ibid s 75(3).

8 See the London County Council (General Powers) Act 1921 s 31 (amended by the Greater London Council (General Powers) Act 1968 s 40; the London Authorities (Superannuation) Order 1965, SI 1965/621, art 28(2), Sch 7; the Local Government Superannuation Regulations 1974, SI 1974/520, reg M4, Sch 19 Pt III; and the Local Government Superannuation (City of London) Regulations 1977, SI 1977/1341, reg 23, Sch 6 Pt II).

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/2. THE LONDON BOROUGH COUNCILS AND THE CORPORATION OF LONDON/(3) FINANCE/78. Application of local government finance legislation.

### **(3) FINANCE**

#### **78. Application of local government finance legislation.**

For most purposes, the general law relating to local government finance<sup>1</sup> also applies to the London borough councils<sup>2</sup> and to the Common Council of the City of London (in its capacity as a local authority or police authority)<sup>3</sup>.

Each London borough council and the Common Council of the City of London must make arrangements for the proper administration of its financial affairs and must secure that one of its officers has responsibility for those affairs<sup>4</sup>. Accounts of London borough councils and of the Common Council of the City of London are subject to audit by the Audit Commission<sup>5</sup>. As best value authorities<sup>6</sup>, London borough councils and the Common Council of the City of London have a duty to comply with the requirements of best value<sup>7</sup>.

London borough councils and the Common Council of the City of London are billing authorities for the purposes of council tax and non-domestic rating<sup>8</sup>, and they are receiving authorities for the purposes of revenue support grants<sup>9</sup>.

London borough councils and the Common Council of the City of London are authorities to which the provisions relating to capital finance apply<sup>10</sup>.

There are special provisions relating to the City of London. Money received by the Corporation of the City of London is in the custody of the Chamberlain of London<sup>11</sup> and revenues derived from the corporation's estates are known as 'City's Cash'<sup>12</sup>. The Corporation of the City of London and the Common Council of the City of London have special borrowing powers<sup>13</sup>. The Common Council of the City of London maintains a fund, known as the City fund, into which certain sums must be paid and from which certain payments must be made<sup>14</sup>.

<sup>1</sup> As to the general law relating to local government finance see LOCAL GOVERNMENT vol 29(1) (Reissue) PARA 514 et seq.

<sup>2</sup> As to the constitution of London borough councils see PARA 35 et seq ante.

<sup>3</sup> As to the Common Council of the City of London see PARAS 51-55 ante.

<sup>4</sup> See the Local Government Act 1972 s 151; the Local Government and Housing Act 1989 s 6(1); and LOCAL GOVERNMENT vol 29(1) (Reissue) PARA 624. As to financial administration and accounts see LOCAL GOVERNMENT vol 29(1) (Reissue) PARA 624 et seq. As to the responsible financial officer see LOCAL GOVERNMENT vol 29(1) (Reissue) PARAS 624-626.

<sup>5</sup> See the Audit Commission Act 1998; and LOCAL GOVERNMENT vol 69 (2009) PARA 757 et seq. As to the Audit Commission see LOCAL GOVERNMENT vol 69 (2009) PARAS 744-795.

<sup>6</sup> See LOCAL GOVERNMENT vol 69 (2009) PARA 688.

<sup>7</sup> See the Local Government Act 1999 Pt I (ss 1-29) (as amended); and LOCAL GOVERNMENT vol 69 (2009) PARA 688 et seq.

<sup>8</sup> As to council tax see RATING AND COUNCIL TAX vol 39(1B) (Reissue) PARA 227 et seq; and as to non-domestic rating see RATING AND COUNCIL TAX vol 39(1B) (Reissue) PARA 3 et seq. As to billing authorities see RATING AND COUNCIL TAX vol 39(1B) (Reissue) PARAS 5, 229.

9 As to revenue support grants see LOCAL GOVERNMENT vol 29(1) (Reissue) PARA 531 et seq. As to receiving authorities see LOCAL GOVERNMENT vol 29(1) (Reissue) PARA 532.

10 See the Local Government and Housing Act 1989 Pt IV (ss 39-66) (as amended); and LOCAL GOVERNMENT vol 29(1) (Reissue) PARA 558 et seq.

11 The duties of the Chamberlain of London include those of the responsible financial officer. As to the responsible financial officer see the text and note 4 supra; and LOCAL GOVERNMENT vol 29(1) (Reissue) PARA 624.

12 The City's Cash is applied for charitable, educational, ceremonial and other purposes. The revenues from the Bridge House Estates Fund are used to maintain the city bridges and for various charitable purposes: see further PARA 58 note 5 ante.

13 The corporation may by virtue of ancient privilege borrow money on the security of the corporate property at the pleasure of the Common Council. The Stock Transfer Act 1963 s 1 (as amended) applies to securities issued by the corporation otherwise than as a local authority as it applies to securities mentioned in s 1(4)(b) (as amended) (see COMPANIES vol 14 (2009) PARA 400): City of London (Various Powers) Act 1965 s 35.

The Common Council has statutory power to borrow money: see the London Government Act 1963 s 68. Money so borrowed must be repaid within 60 years: see the City of London (Various Powers) Act 1939 s 5. As to the power to reborrow see the City of London (Various Powers) Act 1926 s 11 (amended by the City of London (Various Powers) Act 1977 s 17). Private Acts may authorise borrowing for the purposes of particular works and expenditure: see eg the City of London (Various Powers) Act 1969 s 11(1), (2) (power to borrow for the purposes of Billingsgate Market). As to markets in London see MARKETS, FAIRS AND STREET TRADING vol 29(2) (Reissue) PARA 1018.

14 As to the City fund see LOCAL GOVERNMENT vol 29(1) (Reissue) PARA 552.

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/3. THE GREATER LONDON AUTHORITY/(1) ESTABLISHMENT AND PURPOSES OF THE GREATER LONDON AUTHORITY/79. Establishment of the Greater London Authority.

### **3. THE GREATER LONDON AUTHORITY**

#### **(1) ESTABLISHMENT AND PURPOSES OF THE GREATER LONDON AUTHORITY**

##### **79. Establishment of the Greater London Authority.**

The Greater London Authority Act 1999 established an authority for Greater London<sup>1</sup>, known as the Greater London Authority<sup>2</sup>. The Authority consists of the Mayor of London<sup>3</sup> and an Assembly for London, known as the London Assembly<sup>4</sup>. The Authority is a body corporate<sup>5</sup>, and has the functions<sup>6</sup> which are transferred to it, or which are conferred or imposed on it, by or under the Greater London Authority Act 1999 or any other Act<sup>7</sup>.

The Authority has four functional bodies, which are responsible for carrying out certain aspects of the Authority's work<sup>8</sup>.

1 As to Greater London see PARA 29 ante.

2 Greater London Authority Act 1999 s 1(1). As to the principal purposes of the Authority see PARA 80 post; and for the power of the Authority to act in furtherance of those purposes see PARAS 175-176 post.

3 Ibid s 2(1)(a). As to the Mayor of London see PARA 81 post.

4 Ibid s 2(1)(b). As to the London Assembly see PARA 82 post.

5 Ibid s 1(2).

6 As to the functions of the Authority see PARA 164 et seq post. As to the functions of local authorities generally see LOCAL GOVERNMENT vol 69 (2009) PARA 303 et seq.

7 Greater London Authority Act 1999 s 1(3).

8 As to the functional bodies see PARAS 213-218 post.

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/3. THE GREATER LONDON AUTHORITY/(1) ESTABLISHMENT AND PURPOSES OF THE GREATER LONDON AUTHORITY/80. The principal purposes of the Greater London Authority.

**80. The principal purposes of the Greater London Authority.**

The principal purposes of the Greater London Authority<sup>1</sup> are:

- 143 (1) to promote economic development and wealth creation in Greater London<sup>2</sup>;
- 144 (2) to promote social development in Greater London<sup>3</sup>; and
- 145 (3) to promote the improvement of the environment in Greater London<sup>4</sup>.

The Authority has a general power to do anything which it considers will further any one or more of its principal purposes<sup>5</sup>.

1 As to the establishment of the Greater London Authority see PARA 79 ante. As to the principal purposes see further PARAS 175-176 post. As to the functions and powers of the Authority generally see PARA 164 et seq post.

2 Greater London Authority Act 1999 s 30(2)(a). As to Greater London see PARA 29 ante.

3 Ibid s 30(2)(b).

4 Ibid s 30(2)(c).

5 See ibid s 30(1); and PARA 176 post.

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/3. THE GREATER LONDON AUTHORITY/(2) THE MAYOR OF LONDON AND THE LONDON ASSEMBLY/(i) The Mayor and the Assembly/81. The Mayor of London.

## **(2) THE MAYOR OF LONDON AND THE LONDON ASSEMBLY**

### **(i) The Mayor and the Assembly**

#### **81. The Mayor of London.**

The Mayor of London<sup>1</sup>, together with the London Assembly<sup>2</sup>, forms the Greater London Authority<sup>3</sup>. The Mayor is elected<sup>4</sup>, and holds office for a term of four years<sup>5</sup>. The Mayor's powers and duties include the setting of annual budgets for the Greater London Authority<sup>6</sup> and its functional bodies<sup>7</sup>, that is, Transport for London<sup>8</sup>, the Metropolitan Police Authority<sup>9</sup>, the London Fire and Emergency Planning Authority<sup>10</sup> and the London Development Agency<sup>11</sup>. He has powers of appointment in relation to these bodies<sup>12</sup>. He is also responsible for strategies relating to transport<sup>13</sup>, planning<sup>14</sup>, culture<sup>15</sup> and various environmental issues<sup>16</sup>.

1 The Mayor of London is to be distinguished from the Lord Mayor of the City of London. As to the Lord Mayor of the City of London see PARAS 44-46 ante.

2 As to the London Assembly see PARA 82 post.

3 See the Greater London Authority Act 1999 s 2(1); and PARA 79 ante. As to the establishment of the Greater London Authority see PARA 79 ante.

4 See PARA 88 et seq post.

5 See PARA 89 post. As to the Mayor's term of office see also PARA 100 post.

6 See PARA 233 et seq post.

7 As to the functional bodies of the Greater London Authority see PARAS 213-218 post.

8 As to Transport for London see PARAS 218, 269 et seq post.

9 As to the Metropolitan Police Authority see PARA 216 post; and POLICE vol 36(1) (2007 Reissue) PARAS 147-155.

10 As to the London Fire and Emergency Planning Authority see PARA 217 post; and FIRE SERVICES vol 18(2) (Reissue) PARA 17 et seq.

11 As to the London Development Agency see PARA 215 post; and TRADE AND INDUSTRY vol 97 (2010) PARA 988 et seq.

12 Eg the Mayor appoints the members of Transport for London: see the Greater London Authority Act 1999 s 154, Sch 10 paras 2, 3; and PARA 278 post.

13 As to the transport strategy see PARAS 197, 262-268 post.

14 As to the spatial development strategy see PARAS 189-195 post; and as to the London Development Agency strategy see PARA 196 post.

15 As to the culture strategy see PARA 198 post.

16 As to the London biodiversity action plan see PARA 181 post; as to the municipal waste management strategy see PARAS 182-184 post; as to the London air quality strategy see PARA 185 post; and as to the London ambient noise strategy see PARA 186 post.



Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/3. THE GREATER LONDON AUTHORITY/(2) THE MAYOR OF LONDON AND THE LONDON ASSEMBLY/(i) The Mayor and the Assembly/82. The London Assembly.

## **82. The London Assembly.**

The London Assembly, together with the Mayor of London<sup>1</sup>, forms the Greater London Authority<sup>2</sup>. The Assembly consists of 25 members<sup>3</sup>, of whom 14 are constituency members<sup>4</sup>, there being one constituency member for each Assembly constituency<sup>5</sup>, and 11 are members for the whole of Greater London, known as London members<sup>6</sup>.

The Assembly must maintain a register stating: (1) the name and address of every member of the Assembly for the time being; (2) whether the member is a London member or a constituency member; and (3) if he is a constituency member, the Assembly constituency for which he is the member<sup>7</sup>. The register must be open to inspection by the public at the offices of the Assembly<sup>8</sup>.

1 As to the Mayor of London see PARA 81 ante.

2 See the Greater Authority London Act 1999 s 2(1); and PARA 79 ante. As to the establishment of the Greater London Authority see PARA 79 ante.

3 'Assembly member' means a member of the London Assembly: *ibid* s 424(1). As to the election and term of office of members see PARA 88 et seq post. As to the disqualification of holders of politically restricted posts for membership of the Authority see PARA 138 post.

4 *Ibid* s 2(2)(a). As to constituency members see also PARA 92 post.

5 *Ibid* s 2(3). As to the Assembly constituencies see PARAS 93-96 post.

6 *Ibid* s 2(2)(b). As to London members see also PARA 97 post. As to Greater London see PARA 29 ante.

7 Local Government Act 1972 s 100G(1)(a) (s 100G added by the Local Government (Access to Information) Act 1985 s 1(1)); Greater London Authority Act 1999 s 58(1)(a), (9).

8 Local Government Act 1972 100G(4) (as added: see note 7 supra); Greater London Authority Act 1999 s 58(1)(a). See also PARA 157 post.

## **UPDATE**

## **82 The London Assembly**

TEXT AND NOTE 7--1972 Act s 100G(1)(a) amended: Local Government and Public Involvement in Health Act 2007 Sch 3 para 7.



Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/3. THE GREATER LONDON AUTHORITY/(2) THE MAYOR OF LONDON AND THE LONDON ASSEMBLY/(i) The Mayor and the Assembly/83. The Deputy Mayor.

### 83. The Deputy Mayor.

There is a Deputy Mayor of London<sup>1</sup>, who has such functions as may be conferred or imposed upon him by or under the Greater London Authority Act 1999 or any other enactment, whenever passed or made<sup>2</sup>. The Deputy Mayor must be appointed by the Mayor of London<sup>3</sup> from among the Assembly members<sup>4</sup>. A person must not hold the offices of Deputy Mayor and Chair (or Deputy Chair) of the Assembly<sup>5</sup> at the same time<sup>6</sup>. If the Mayor appoints as Deputy Mayor the person who is the Chair (or Deputy Chair) of the Assembly, a vacancy arises in the office of Chair (or, as the case may be, Deputy Chair) of the Assembly<sup>7</sup>. A person appointed Deputy Mayor may not act in that office unless or until he has satisfied in respect of his office as an Assembly member certain requirements relating to the declaration of acceptance of office<sup>8</sup>.

A person ceases to be the Deputy Mayor if he ceases to be an Assembly member<sup>9</sup>, if he at any time gives notice<sup>10</sup> of resignation as the Deputy Mayor to the proper officer<sup>11</sup> of the Greater London Authority<sup>12</sup>, or if the Mayor at any time gives him notice terminating his appointment as Deputy Mayor<sup>13</sup>. A person who ceases to be Deputy Mayor is eligible for re-appointment<sup>14</sup>.

1 Greater London Authority Act 1999 s 49(1).

2 Ibid s 49(2). As to the functions of the Greater London Authority, and the exercise of them, see PARA 164 et seq post. As to the establishment of the Greater London Authority see PARA 79 ante.

3 As to the Mayor of London see PARA 81 ante.

4 Greater London Authority Act 1999 s 49(3). For the meaning of 'Assembly member' see PARA 82 note 3 ante. As to the London Assembly see PARA 82 ante.

5 As to the offices of Chair and Deputy Chair of the London Assembly see PARA 84 post.

6 Greater London Authority Act 1999 s 49(4), (6). See also PARA 84 post.

7 Ibid s 49(5), (6).

8 Ibid s 49(7). The requirements referred to in the text are the requirements of s 28(1) (see PARA 105 post).

9 Ibid s 49(8)(a).

10 'Notice' means notice in writing: ibid s 424(1). The Local Government Act 1972 ss 231-234 (as amended) (service, publication and authentication of notices and other documents: see LOCAL GOVERNMENT vol 69 (2009) PARAS 574, 576-578) apply to the Greater London Authority as though the Authority were a local authority which is a principal council and as though the Mayor were the chairman of such an authority: Greater London Authority Act 1999 s 75(1), (2)(f)-(i). For the meaning of 'local authority' see PARA 17 note 9 ante. For the purposes of the Greater London Authority Act 1999, 'principal council' has the same meaning as in the Local Government Act 1972 (see LOCAL GOVERNMENT vol 69 (2009) PARA 23): Greater London Authority Act 1999 s 424(1).

11 In the Greater London Authority Act 1999, and in any enactment applied by the Act, any reference to a proper officer, and any reference which by virtue of the Act is to be construed as such a reference, must in relation to the Greater London Authority or a functional body and any purpose or area be construed as a reference to an officer appointed by the Authority or body for that purpose or area: s 424(1), (2). As to the functional bodies see PARAS 213-218 post.

12 Ibid s 49(8)(b).

13 Ibid s 49(8)(c).

14 Ibid s 49(9).

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#### **84. The Chair and Deputy Chair of the London Assembly.**

There is an office of Chair of the London Assembly<sup>1</sup> and an office of Deputy Chair of the London Assembly<sup>2</sup>. The Chair of the Assembly has the function of chairing meetings of the Assembly<sup>3</sup> and such other functions as may be conferred or imposed upon him by or under the Greater London Authority Act 1999 or any other enactment, whenever passed or made<sup>4</sup>. The Deputy Chair of the Assembly has the function of chairing meetings of the Assembly when authorised or required to do so by or under the Greater London Authority Act 1999 or any other enactment, whenever passed or made, or in accordance with the standing orders of the Greater London Authority<sup>5</sup>, and such other functions as may be conferred or imposed upon him by or under the Greater London Authority Act 1999 or any other enactment, whenever passed or made<sup>6</sup>.

The Chair and Deputy Chair of the Assembly must each be elected from among the members of the Assembly<sup>7</sup> at a meeting of the Assembly<sup>8</sup>, which must be held for that purpose before the expiration of the period of ten days following the day of the poll at an ordinary election<sup>9</sup>. A person must not in general<sup>10</sup> hold the offices of Chair and Deputy Chair at the same time<sup>11</sup>. The Deputy Mayor<sup>12</sup> is not eligible to be the Chair or the Deputy Chair<sup>13</sup>. A person elected Chair or Deputy Chair must not act in that office unless or until he has satisfied in respect of his office as an Assembly member<sup>14</sup> certain requirements relating to the declaration of acceptance of office<sup>15</sup>.

If a vacancy occurs in the office of Chair of the Assembly and there is a person who is the Deputy Chair, that person will also be the Chair<sup>16</sup> until such time as the vacancy is filled<sup>17</sup>. If the Deputy Chair is elected to fill a vacancy in the office of Chair, a vacancy occurs in the office of Deputy Chair<sup>18</sup>. If a vacancy occurs in the office of Chair or Deputy Chair, the first business at the next meeting of the Assembly is to fill the vacancy<sup>19</sup>.

1 Greater London Authority Act 1999 s 50(1)(a). As to the London Assembly see PARA 82 ante.

2 Ibid s 50(1)(b).

3 Ibid s 50(2)(a). This is subject to any provision made by or under the Greater London Authority Act 1999 or any other enactment, whenever passed or made, or by the standing orders of the Greater London Authority: s 50(3). As to standing orders of the Authority see PARA 140 post. As to the establishment of the Authority see PARA 79 ante.

The inaugural meeting of the Assembly, which was held on 12 May 2000 for the purpose of electing the Chair and Deputy Chair in accordance with s 52(2), was chaired by the head of paid service (ie the person who was, by virtue of his appointment under s 407 (see PARA 16 ante), for the time being head of the Greater London Authority's paid service (London Government (Various Provisions) Order 2000, SI 2000/942, art 3(3))), until such time as the results of the elections of the Chair and Deputy Chair had been declared in accordance with standing orders prepared for the purposes of art 3 (art 3(1), (2)). As to the head of the Authority's paid service see PARA 136 post.

4 Greater London Authority Act 1999 s 50(2)(b). In particular, the Chair may call extraordinary meetings of the Assembly: see PARA 143 post.

5 Ibid s 50(4)(a).

6 Ibid s 50(4)(b).

7 Ibid s 51(2).

8 Ibid s 51(1).

9 Ibid s 52(2). As to ordinary elections see PARA 89 post.

10 Ie except as provided by ibid s 51(7) (see the text and note 17 infra).

11 Ibid s 51(3).

12 As to the Deputy Mayor see PARA 83 ante.

13 Greater London Authority Act 1999 s 51(4). See also PARA 83 ante.

14 For the meaning of 'Assembly member' see PARA 82 note 3 ante.

15 Greater London Authority Act 1999 s 51(8). The requirements referred to in the text are the requirements of s 28(1) (see PARA 105 post).

16 Ie subject to the other provisions of the Greater London Authority Act 1999 or any other enactment: s 51(7).

17 Ibid s 51(7). This provision operates as an exception to the requirement that a person must not hold the offices of Chair and Deputy Chair at the same time (see the text and notes 10-11 supra). As to the filling of a vacancy see the text and note 19 infra.

18 Ibid s 51(5).

19 Ibid s 51(6).

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/3. THE GREATER LONDON AUTHORITY/(2) THE MAYOR OF LONDON AND THE LONDON ASSEMBLY/(ii) Qualification and Disqualification/85. Qualification to be Mayor of London or member of the London Assembly.

## **(ii) Qualification and Disqualification**

### **85. Qualification to be Mayor of London or member of the London Assembly.**

A person is qualified<sup>1</sup> to be elected and to be the Mayor of London<sup>2</sup> or an Assembly member<sup>3</sup> if<sup>4</sup>:

- 146 (1) he is a Commonwealth citizen<sup>5</sup>, a citizen of the Republic of Ireland<sup>6</sup> or a relevant citizen of the Union<sup>7</sup>;
- 147 (2) on the relevant day<sup>8</sup>, he has attained the age of 21 years<sup>9</sup>; and
- 148 (3) he satisfies at least one of the conditions relating to his residence, employment or entitlement to vote in Greater London<sup>10</sup>.

The acts and proceedings of any person elected to an office under the Greater London Authority Act 1999 and acting in that office are, notwithstanding his want of qualification, as valid and effectual as if he had been qualified<sup>11</sup>.

1 The subject to any disqualification by virtue of the Greater London Authority Act 1999 or any other enactment. As to disqualification see PARA 86 post. As to proceedings for disqualification see PARA 87 post.

2 As to the Mayor of London see PARA 81 ante.

3 For the meaning of 'Assembly member' see PARA 82 note 3 ante. As to the London Assembly see PARA 82 ante.

4 Greater London Authority Act 1999 s 20(1).

5 As to Commonwealth citizenship see BRITISH NATIONALITY, IMMIGRATION AND ASYLUM.

6 As to citizenship of the Republic of Ireland see BRITISH NATIONALITY, IMMIGRATION AND ASYLUM.

7 Greater London Authority Act 1999 s 20(2). 'Citizen of the Union' is to be construed in accordance with the Treaty Establishing the European Community (Rome, 25 March 1957; TS 1 (1973); Cmnd 5179); and 'relevant citizen of the Union' means a citizen of the Union who is not a Commonwealth citizen or a citizen of the Republic of Ireland: Greater London Authority Act 1999 s 20(8).

8 'The relevant day', in relation to any candidate, means: (1) the day on which he is nominated as a candidate and also, if there is a poll, the day of the election; or (2) if the election is not preceded by the nomination of candidates, the day of the election: *ibid* s 20(8).

9 *Ibid* s 20(3).

10 *Ibid* s 20(4). The conditions are that: (1) on the relevant day the person is, and from that day continues to be, a local government elector for Greater London (s 20(4)(a)); (2) the person has, during the whole of the 12 months preceding that day, occupied as owner or tenant any land or other premises in Greater London (s 20(4)(b)); (3) the person's principal or only place of work during that 12 months has been in Greater London (s 20(4)(c)); (4) the person has during the whole of that 12 months resided in Greater London (s 20(4)(d)). 'Local government elector' means a person registered as a local government elector in the register of electors in accordance with the provisions of the Representation of the People Acts (see ELECTIONS AND REFERENDUMS vol 15(3) (2007 Reissue) PARA 3): Greater London Authority Act 1999 s 29. 'Elector', in relation to an election, means any person whose name is for the time being on the register to be used at that election, but does not include those shown in the register as below voting age on the day fixed for the poll: Representation of the People Act 1983 s 202(1); definition applied by the Greater London Authority Act 1999 s 29(1). As to the meaning of 'vote' see PARA 102 note 5 post. As to Greater London see PARA 29 ante.

11 Ibid s 22.

## **UPDATE**

### **85 Qualification to be Mayor of London or member of the London Assembly**

TEXT AND NOTES 5, 7--For 'Commonwealth citizen' read 'qualifying Commonwealth citizen': 1999 Act s 20(2), (8) (amended by the Electoral Administration Act 2006 Sch 1 para 42(2), (4)). A person is a qualifying Commonwealth citizen if he is a Commonwealth citizen who either (1) is not a person who requires leave under the Immigration Act 1971 to enter or remain in the United Kingdom, or (2) is such a person but for the time being has (or is, by virtue of any enactment, to be treated as having) indefinite leave to remain within the meaning of the 1971 Act; however, a person is not a qualifying Commonwealth citizen by virtue of head (1) above if he does not require leave to enter or remain in the United Kingdom by virtue only of s 8 (exceptions to requirement for leave in special cases): 1999 Act s 20(7A), (7B) (s 20(7A), (7B) added by the 2006 Act Sch 1 para 42(3)).

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## **86. Disqualification for office of Mayor of London or member of the London Assembly.**

A person is disqualified<sup>1</sup> from being elected or being the Mayor of London<sup>2</sup> or an Assembly member<sup>3</sup> if<sup>4</sup>:

- 149 (1) he is a member of staff<sup>5</sup> of the Greater London Authority<sup>6</sup>;
- 150 (2) he holds any of the offices or appointments for the time being designated by the Secretary of State<sup>7</sup> in an order as offices or appointments disqualifying persons from being the Mayor or an Assembly member<sup>8</sup>;
- 151 (3) he has been adjudged bankrupt<sup>9</sup>, or has made a composition or arrangement with his creditors<sup>10</sup>;
- 152 (4) he has within five years before the day of the election, or since his election, been convicted in the United Kingdom<sup>11</sup>, the Channel Islands or the Isle of Man of any offence and has had passed on him a sentence of imprisonment (whether suspended or not) for a period of not less than three months without the option of a fine<sup>12</sup>;
- 153 (5) he is disqualified under the provisions of the Representation of the People Act 1983 relating to the delivery of declarations of election expenses in mayoral elections<sup>13</sup> or relating to the questioning of, and corrupt or illegal practices in, elections<sup>14</sup>, or under the provisions of the Audit Commission Act 1998 concerned with unlawful or irregular accounting<sup>15</sup>, from being elected or being the Mayor or an Assembly member<sup>16</sup>; or
- 154 (6) he is a paid officer of a London borough council<sup>17</sup> who is employed under the direction of: (a) any of that council's committees or sub-committees, the membership of which includes the Mayor or one or more persons appointed on the nomination of the Authority acting by the Mayor<sup>18</sup>; or (b) a joint committee, the membership of which includes one or more members appointed on the nomination of that council and one or more members appointed on the nomination of the Authority acting by the Mayor<sup>19</sup>.

The acts and proceedings of any person elected to an office under the Greater London Authority Act 1999 and acting in that office are, notwithstanding his disqualification, as valid and effectual as if he had been qualified<sup>20</sup>.

1 As to proceedings for disqualification see PARA 87 post.

2 As to the Mayor of London see PARA 81 ante.

3 For the meaning of 'Assembly member' see PARA 82 note 3 ante. As to the London Assembly see PARA 82 ante.

4 Greater London Authority Act 1999 s 21(1), (2). A person who is disqualified under s 21 from being elected or being the Mayor of London or a member of the London Assembly, otherwise than by reason only of being a member of staff of the Greater London Authority, is disqualified from being a member of a joint committee established by virtue of s 39(1) or s 39(2) (see PARA 169 post) or of any sub-committee of such a committee: s 39(6). As to the establishment of the Greater London Authority see PARA 79 ante.

5 'Member of staff' in relation to the Greater London Authority, means a person appointed under *ibid* s 67(1) or s 67(2) (see PARAS 133-135 post): s 424(1).

6 *Ibid* s 21(1)(a).

7 As to the Secretary of State see PARA 12 note 2 ante.

8 Greater London Authority Act 1999 s 21(1)(b). The offices or appointments so designated are:

20 (1) the office of member of any of:

1. (a) the Audit Commission for Local Authorities and the National Health Service in England and Wales (see LOCAL GOVERNMENT vol 69 (2009) PARA 744 et seq) (Greater London Authority (Disqualification) Order 2000, SI 2000/432, art 2(a), Schedule para 1);  
1
2. (b) the Central Arbitration Committee (see EMPLOYMENT vol 41 (2009) PARA 1194 et seq) (Schedule para 2);  
2
3. (c) the Commission for Local Administration in England (see LOCAL GOVERNMENT vol 69 (2009) PARA 839 et seq) (Schedule para 3);  
3
4. (d) the Council of the Advisory, Conciliation and Arbitration Service Committee (see EMPLOYMENT vol 41 (2009) PARA 1182 et seq) (Schedule para 4);  
4
5. (e) the Health and Safety Executive Committee (see HEALTH AND SAFETY AT WORK vol 52 (2009) PARA 361 et seq) (Schedule para 5);  
5
6. (f) the Local Government Commission (see LOCAL GOVERNMENT vol 69 (2009) PARA 56 et seq) (Schedule para 6);  
6
7. (g) the London Pensions Fund Authority (see PARAS 225-231 post) (Schedule para 7);  
7
8. (h) the Police Complaints Authority (see POLICE vol 36(1) (2007 Reissue) PARA 316 et seq) (Schedule para 8); and  
8

21 (2) any of the following offices or appointments:

9. (a) any office or appointment which would disqualify the holder from membership of the House of Commons by virtue of the House of Commons Disqualification Act 1975 s 1(1)(a), (b), (c), (d) or (e) (as amended) (judges, civil servants, members of the armed forces, members of police forces and members of foreign legislatures: see PARLIAMENT vol 78 (2010) PARAS 906-908) (Greater London Authority (Disqualification) Order 2000, SI 2000/432, art 2(b), Schedule para 9);  
9
10. (b) Chairman of the Health and Safety Commission (see HEALTH AND SAFETY AT WORK vol 52 (2009) PARA 361 et seq) (Schedule para 10);  
10
11. (c) Commissioner or Assistant Commissioner of Police of the Metropolis (see POLICE vol 36(1) (2007 Reissue) PARA 183 et seq) (Schedule para 11);  
11
12. (d) Commissioner of the City of London Police (see POLICE vol 36(1) (2007 Reissue) PARA 187) (Schedule para 12);  
12
13. (e) Comptroller and Auditor General (see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARAS 724-726) (Schedule para 13);  
13
14. (f) Information Commissioner (see CONFIDENCE AND DATA PROTECTION) (Schedule para 14 (amended by virtue of the Freedom of Information Act 2000 s 18(4), Sch 2 para 1(1)));



- 14
15. (g) Director of Passenger Rail Franchising (see RAILWAYS, INLAND WATERWAYS AND CROSS-COUNTRY PIPELINES vol 39(1A) (Reissue) PARA 45) (Greater London Authority (Disqualification) Order 2000, SI 2000/432, Schedule para 15);  
15
  16. (h) Greater London returning officer (see PARA 98 note 2 post) and returning officer at an election of a constituency member of the London Assembly (see PARA 91 post) (Schedule para 16);  
16
  17. (i) Her Majesty's Chief Inspector of Constabulary (see POLICE vol 36(1) (2007 Reissue) PARA 206) (Schedule para 17);  
17
  18. (j) Her Majesty's Chief Inspector of Fire Services (see FIRE SERVICES) (Schedule para 18);  
18
  19. (k) member of the Metropolitan Police Authority appointed under the Police Act 1996 Sch 2A para 5 (as added) (magistrate members: see POLICE vol 36(1) (2007 Reissue) PARA 150) (Greater London Authority (Disqualification) Order 2000, SI 2000/432, Schedule para 19);  
19
  20. (l) member of the staff of the National Audit Office (see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 720) (Schedule para 20);  
20
  21. (m) parking adjudicator appointed under the Road Traffic Act 1991 s 73 (as amended) (see ROAD TRAFFIC vol 40(2) (2007 Reissue) PARA 895) (Greater London Authority (Disqualification) Order 2000, SI 2000/432, Schedule para 21);  
21
  22. (n) person appointed under the Greater London Authority Act 1999 Sch 10 para 2 (penalty fares appeals adjudicators: see PARA 278 post) (Greater London Authority (Disqualification) Order 2000, SI 2000/432, Schedule para 22);  
22
  23. (o) person appointed under the Greater London Authority Act 1999 Sch 24 para 20 (persons to hear work place parking levy appeals: see PARA 389 post) (Greater London Authority (Disqualification) Order 2000, SI 2000/432, Schedule para 23);  
23
  24. (p) person appointed under the Greater London Authority Act 1999 Sch 23 para 12(1) (road user charging appeals adjudicators: see PARA 346 post) (Greater London Authority (Disqualification) Order 2000, SI 2000/432, Schedule para 24);  
24
  25. (q) public-private partnership agreement arbiter (see PARA 316 et seq post) (Schedule para 25);  
and  
25
  26. (r) Rail Regulator (see RAILWAYS, INLAND WATERWAYS AND CROSS-COUNTRY PIPELINES vol 39(1A) (Reissue) PARA 47) (Schedule para 26).  
26

As to the making of orders generally see PARA 13 ante.

9 Where a person is disqualified under the Greater London Authority Act 1999 s 21(1)(c) by reason of having been adjudged bankrupt, the disqualification ceases: (1) unless the bankruptcy order made against the person is previously annulled, on his discharge from bankruptcy (s 21(3)(a)); and (2) if the bankruptcy order is so annulled, on the date of the annulment (s 21(3)(b)).

10 Ibid s 21(1)(c). Where a person is disqualified under s 21(1)(c) by reason of having made a composition or arrangement with his creditors, the disqualification ceases: (1) if he pays his debts in full, on the date on which the payment is completed (s 21(4)(a)); and (2) in any other case, on the expiration of five years from the date on which the terms of the deed of composition or arrangement are fulfilled (s 21(3)(b)).

11 For the meaning of 'United Kingdom' see PARA 26 note 2 ante.

12 Greater London Authority Act 1999 s 21(1)(d). For the purposes of s 21(1)(d), the date of the conviction is deemed to be the ordinary date on which the period allowed for making an appeal or application with respect to the conviction expires, or, if such an appeal or application is made, the date on which the appeal or application is finally disposed of or abandoned or fails by reason of its non-prosecution: s 21(5).

13 Ibid s 21(1)(e)(i). The provisions referred to in the text are those of the Representation of the People Act 1983 s 85A (as added) (see ELECTIONS AND REFERENDUMS vol 15(4) (2007 Reissue) PARA 903).

14 Greater London Authority Act 1999 s 21(1)(e)(i). The provisions referred to in the text are those of the Representation of the People Act 1983 Pt III (ss 120-186) (as amended) (see ELECTIONS AND REFERENDUMS).

15 Greater London Authority Act 1999 s 21(1)(e)(ii). The provisions referred to in the text are the Audit Commission Act 1998 ss 17, 18 (both as amended) (see LOCAL GOVERNMENT vol 69 (2009) PARA 772).

16 Greater London Authority Act 1999 s 21(1)(e).

17 As to the London boroughs and their councils see PARAS 30, 35-39, 59 et seq ante.

18 Greater London Authority Act 1999 s 21(2)(a).

19 Ibid s 21(2)(b).

20 Ibid s 22.

## **UPDATE**

### **86 Disqualification for office of Mayor of London or member of the London Assembly**

NOTE 8--In head (2)(q) as to public-private partnership agreements, see PARA 316A.

TEXT AND NOTES 9, 10--Now, head (3) he is the subject of a bankruptcy restrictions order or an interim order: Greater London Authority Act 1999 s 21(1)(c) (substituted by the Enterprise Act 2002 (Disqualification from Office: General) Order 2006, SI 2006/1722).

NOTES 9, 10--1999 Act s 21(3), (4) repealed: SI 2006/1722.

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## **87. Proceedings for disqualification.**

Proceedings against any person on the ground that he acted<sup>1</sup> or claims to be entitled to act<sup>2</sup> as the Mayor of London or an Assembly member while disqualified for so acting<sup>3</sup> may be instituted by, and only by, a local government elector<sup>4</sup> for Greater London<sup>5</sup>. Proceedings must not be instituted against a person otherwise than under these provisions on the ground that he has while disqualified for acting as the Mayor or an Assembly member so acted<sup>6</sup>, or claimed to be entitled so to act<sup>7</sup>.

1 Proceedings are to be taken in the High Court or a magistrates' court if the person acted as the Mayor or an Assembly member while disqualified: see the Local Government Act 1972 s 92(1)(a); and the Greater London Authority Act 1999 s 23. Proceedings may not be instituted against any person after the expiration of more than six months from the date on which he so acted: see the Local Government Act 1972 s 92(1); and the Greater London Authority Act 1999 s 23. As to the Mayor of London see PARA 81 ante. For the meaning of 'Assembly member' see PARA 82 note 3 ante. As to the London Assembly see PARA 82 ante.

Where a person continues to act over a period greater than six months, the limitation period runs from the latest date he so acted: *Islington London Borough Council v Camp* (29 July 1999, unreported), doubting *Bishop v Deakin* [1936] Ch 409, [1936] 1 All ER 255.

2 Proceedings are to be taken in the High Court if the person claims to be entitled to act as the Mayor or an Assembly member while disqualified: see the Local Government Act 1972 s 92(1)(b); and the Greater London Authority Act 1999 s 23.

3 For these purposes, a person is deemed to be disqualified for acting as the Mayor or an Assembly member if: (1) he is not qualified to be, or is disqualified for being, the Mayor or an Assembly member; or (2) by reason of failure to make and deliver the declaration of acceptance of office within the period required, or by reason of resignation or failure to attend meetings of the Assembly, he has ceased to be the Mayor or an Assembly member: see the Local Government Act 1972 s 92(6); and the Greater London Authority Act 1999 s 23. As to qualification for office see PARA 85 ante. As to disqualification see PARA 86 ante. As to declaration of acceptance of office see PARA 105 post. As to resignation of Assembly members see PARA 107 post; and as to resignation of the Mayor see PARA 117 post. As to failure of Assembly members to attend meetings see PARA 108 post; and as to failure of the Mayor to attend meetings see PARA 118 post.

4 For the meanings of 'local government elector' and 'elector' see PARA 85 note 10 ante.

5 See the Local Government Act 1972 s 92(1); and the Greater London Authority Act 1999 s 23.

6 Where in proceedings instituted under these provisions it is proved that the defendant has acted as the Mayor or an Assembly member while disqualified for so acting, then if the proceedings are in the High Court, the High Court may: (1) make a declaration to that effect and declare that the office in which the defendant has acted is vacant; (2) grant an injunction restraining the defendant from so acting; (3) order that the defendant is to forfeit to Her Majesty such sum as the court thinks fit not exceeding £50 for each occasion on which he so acted while disqualified: see the Local Government Act 1972 s 92(2)(a); and the Greater London Authority Act 1999 s 23.

Where in proceedings instituted under these provisions it is proved that the defendant has acted as the Mayor or an Assembly member while disqualified for so acting, then if the proceedings are in a magistrates' court, the magistrates' court may convict the defendant and impose on him a fine not exceeding level 3 on the standard scale for each occasion on which he so acted while disqualified: see the Local Government Act 1972 s 92(2)(b) (amended by the Criminal Justice Act 1982 ss 37, 38, 46); and the Greater London Authority Act 1999 s 23. 'Standard scale' means the standard scale of maximum fines for summary offences as set out in the Criminal Justice Act 1982 s 37 (as amended): see the Interpretation Act 1978 s 5, Sch 1 (definition added by the Criminal Justice Act 1988 s 170(1), Sch 15 para 58); and SENTENCING AND DISPOSITION OF OFFENDERS vol 92 (2010) PARA 142. At the date at which this volume states the law, the standard scale is as follows: level 1, £200; level 2, £500; level 3, £1,000; level 4, £2,500; level 5, £5,000: Criminal Justice Act 1982 s 37(2) (substituted by the Criminal Justice Act 1991 s 17(1)). As to the determination of the amount of the fine actually imposed, as distinct from

the level on the standard scale which it may not exceed, see the Powers of Criminal Courts (Sentencing) Act 2000 s 128; and SENTENCING AND DISPOSITION OF OFFENDERS vol 92 (2010) PARA 144.

Where proceedings under these provisions are instituted in a magistrates' court, then: (a) if the court is satisfied that the matter would be more properly dealt with in the High Court, it must by order discontinue the proceedings; (b) if the High Court, on application made to it by the defendant within 14 days after service of the claim form, is satisfied that the matter would be more properly dealt with in the High Court, it may make an order, which is not subject to any appeal, requiring the magistrates' court by order to discontinue the proceedings: see the Local Government Act 1972 s 92(3); and the Greater London Authority Act 1999 s 23.

7 See the Local Government Act 1972 s 92(5); and the Greater London Authority Act 1999 s 23. Where in proceedings instituted under these provisions in the High Court it is proved that the defendant claims to act as the Mayor or an Assembly member and is disqualified for so acting, the court may make a declaration to that effect and declare that the office in which the defendant claims to be entitled to act is vacant and grant an injunction restraining him from so acting: see the Local Government Act 1972 s 92(4); and the Greater London Authority Act 1999 s 23.

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### **(iii) Election**

#### **A. IN GENERAL**

#### **88. Franchise and conduct of elections.**

Elections of the Mayor of London<sup>1</sup> and the members of the London Assembly<sup>2</sup> are treated as local government elections for the purposes of the Representation of the People Acts<sup>3</sup>. This legislation principally makes provision as to the franchise<sup>4</sup>, election campaigns<sup>5</sup> and legal proceedings in relation to elections<sup>6</sup>.

Rules have been made in relation to elections, which govern the election of the constituency members<sup>7</sup>, the London members<sup>8</sup>, and the Mayor<sup>9</sup>, regulate the procedure for ordinary elections<sup>10</sup>, set out the forms to be used in such elections<sup>11</sup>, and make provision for the electronic counting of votes<sup>12</sup> and for the holding of combined polls<sup>13</sup>.

1 As to the Mayor of London see PARA 81 ante.

2 As to the London Assembly see PARA 82 ante.

3 This principally refers to the Representation of the People Act 1983 (as amended): see ELECTIONS AND REFERENDUMS. See also the Representation of the People Act 1985 (as amended); the Representation of the People Act 1989 (as amended); the Representation of the People Act 1991 (as amended); the Representation of the People Act 2000 (as amended); and ELECTIONS AND REFERENDUMS.

4 See the Representation of the People Act 1983 Pt I (ss 1-66A) (as amended); and ELECTIONS AND REFERENDUMS).

5 See *ibid* Pt II (ss 67-119) (as amended); and ELECTIONS AND REFERENDUMS.

6 See *ibid* Pt III (ss 120-186) (as amended); and ELECTIONS AND REFERENDUMS.

7 See the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 2(1), Sch 1 (as amended); and PARA 89 post. As to constituency members see PARAS 82 ante, 92 post.

8 See *ibid* r 2(1), Sch 2 (as amended); and PARA 89 post. As to London members see PARAS 82 ante, 97 post.

9 See *ibid* r 2(1), Sch 3 (as amended); and PARA 89 post.

10 See *ibid* r 2(1), Sch 4; and PARA 89 post. As to the holding of ordinary elections para 89 post.

11 See *ibid* r 2(1), Sch 5; and PARA 89 post.

12 See *ibid* r 2(1), Sch 6; and PARAS 102-104 post.

13 See *ibid* r 2(1), Schs 7, 8 (as amended); and PARA 89 post.

#### **UPDATE**

#### **88 Franchise and conduct of elections**

TEXT AND NOTES 7-13--SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541.



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## **89. Holding of ordinary elections.**

An ordinary election<sup>1</sup> involves the holding of an election for the return of the Mayor of London<sup>1</sup>, an election for the return of the London members<sup>2</sup>, and elections for the return of the constituency members<sup>3</sup>. The poll at each ordinary election is held on the first Thursday in May in the fourth calendar year following that in which the previous ordinary election was held<sup>4</sup>, although this is subject to the power of the Secretary of State to make an order fixing a day other than the first Thursday in May as the day of the poll<sup>5</sup>.

Provision may be made for the free delivery of the election addresses of candidates at ordinary elections or at elections to fill vacancies in the office of Mayor or Assembly member<sup>6</sup>.

1 As to the Mayor of London see PARA 81 ante. As to rules relating to the election of the Mayor see the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 2(1), Sch 3 (amended by SI 2000/1040; SI 2001/3789).

2 As to London members see PARAS 82 ante, 97 post. As to rules relating to the election of the London members see the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 2 (amended by SI 2000/1040; SI 2001/3789).

3 Greater London Authority Act 1999 s 2(7). For the purposes of the Greater London Authority Act 1999, 'ordinary election' is to be construed in accordance with s 2(7): s 424(1). As to constituency members see PARAS 82 ante, 92 post. As to rules relating to the election of the constituency members see the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, Sch 1 (amended by SI 2001/3789). As to the franchise, conduct etc of an ordinary election see PARA 88 ante. As to the procedure for ordinary elections see the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 2(1), Sch 4. As to the forms to be used see Sch 5. As to the holding of combined polls see Schs 7, 8.

4 Greater London Authority Act 1999 s 3(2). The poll at the first ordinary election was held on 4 May 2000 (s 3(1)), although provision was made for early voting: see s 3(4)(d), (5), (6); and the Greater London Authority Election (Early Voting) Order 2000, SI 2000/826, art 3, Sch 1. Provision as to the recovery of costs incurred by a returning officer or the Secretary of State in connection with the holding of the first ordinary election was made by the Greater London Authority Act 1999 ss 18, 19. As to returning officers see PARA 91 post. As to the Secretary of State see PARA 12 note 2 ante.

5 See the Representation of the People Act 1983 s 37(2) (as added); applied by the Greater London Authority Act 1999 s 3(3)). See further ELECTIONS AND REFERENDUMS vol 15(3) (2007 Reissue) PARA 213. At the date at which this volume states the law no such order was in force.

6 See *ibid* s 17A(3)-(6) (s 17A added by the Representation of the People Act 2000 s 14(1), (2)). As to the free delivery of election addresses for the purposes of the first ordinary election (see note 4 *supra*) see the Greater London Authority Act 1999 s 17A(1), (2), Sch 3A (s 17A as so added; Sch 3A added by the Representation of the People Act 2000 s 14(4), Sch 5); and ELECTIONS AND REFERENDUMS vol 15(3) (2007 Reissue) PARA 49. As to the filling of vacancies see PARAS 114-115, 127 post.

## **UPDATE**

### **89 Holding of ordinary elections**

TEXT AND NOTES--As to the power to change date of 2004 local government elections see Local Government Act 2003 s 103, Local Elections (Ordinary Day of Election 2004) Order 2004, SI 2004/222 and ELECTIONS AND REFERENDUMS vol 15(3) (2007 Reissue) PARA 213.

TEXT AND NOTES 1-3--SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541.

NOTE 5--1999 Act s 3(3) amended: Local Government and Public Involvement in Health Act 2007 s 60(3).

NOTE 6--1999 Act s 17A(2) amended, s 17A(2A) added: Electoral Administration Act 2006 Sch 1 para 18. The Greater London Authority Elections (Election Addresses) Order 2003, SI 2003/1907 (amended by SI 2008/507), makes provision for the free delivery of election addresses of Mayoral candidates.



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## **90. Voting at ordinary elections.**

Each person entitled to vote<sup>1</sup> as an elector<sup>2</sup> at an ordinary election<sup>3</sup> has one vote which may be given for a candidate to be the Mayor of London (a 'mayoral vote')<sup>4</sup>, one vote which may be given for a candidate to be the Assembly member<sup>5</sup> for the Assembly constituency (a 'constituency vote')<sup>6</sup>, and one vote which may be given for a registered political party<sup>7</sup> which has submitted a list of candidates to be London members<sup>8</sup> or an individual who is a candidate to be a London member (a 'London vote')<sup>9</sup>.

1 As to the meaning of 'vote' see PARA 102 note 5 post.

2 For the meaning of 'elector' see PARA 85 note 10 ante.

3 As to ordinary elections see PARA 89 ante.

4 Greater London Authority Act 1999 s 4(1)(a). As to the Mayor of London see PARA 81 ante. As to the return of the Mayor see PARA 102 post.

5 For the meaning of 'Assembly member' see PARA 82 note 3 ante.

6 Greater London Authority Act 1999 s 4(1)(b). At an ordinary election, a person may not be a candidate to be the Assembly member for more than one Assembly constituency: s 4(9). As to the Assembly constituencies see PARAS 93-96 post. As to the return of Assembly members for Assembly constituencies see PARA 103 post.

7 For the purposes of *ibid* Pt I (ss 1-29) (as amended), 'registered political party' means a party registered under the Political Parties, Elections and Referendums Act 2000 Pt II (ss 22-40) (see ELECTIONS AND REFERENDUMS): Greater London Authority Act 1999 s 4(11) (amended by the Political Parties, Elections and Referendums Act 2000 s 158(1), Sch 21, PARA 15).

8 As to London members see PARAS 82 ante, 97 post. As to the lists of candidates to be London members see PARA 98 post. As to the return of London members see PARA 104 post.

9 Greater London Authority Act 1999 s 4(1)(c), (5). As to individual candidature for London membership see PARA 99 post.

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## 91. Returning officers.

The returning officer at any election of the Mayor of London<sup>1</sup>, at the election of the London members<sup>2</sup> of the London Assembly at an ordinary election, and for the purposes of the return of London members of the London Assembly otherwise than at an election<sup>3</sup>, is the proper officer<sup>4</sup> of the Greater London Authority<sup>5</sup>.

The returning officer at an election of a constituency member of the Assembly<sup>6</sup> is such a person, or a person of such a description, as may be designated by order of the Secretary of State<sup>7</sup>. Pursuant to this power, the Secretary of State has ordered that the returning officer at any such election in an Assembly constituency is the person who is for the time being the returning officer in relation to other local government elections<sup>8</sup> in the borough specified in relation to that constituency as follows<sup>9</sup>:

- 155 (1) for Barnet and Camden, the returning officer for the London borough of Barnet<sup>10</sup>;
- 156 (2) for Bexley and Bromley, the returning officer for the London borough of Bromley<sup>11</sup>;
- 157 (3) for Brent and Harrow, the returning officer for the London borough of Brent<sup>12</sup>;
- 158 (4) for City and East, the returning officer for the London borough of Newham<sup>13</sup>;
- 159 (5) for Croydon and Sutton, the returning officer for the London borough of Croydon<sup>14</sup>;
- 160 (6) for Ealing and Hillingdon, the returning officer for the London borough of Ealing<sup>15</sup>;
- 161 (7) for Enfield and Haringey, the returning officer for the London borough of Enfield<sup>16</sup>;
- 162 (8) for Greenwich and Lewisham, the returning officer for the London borough of Lewisham<sup>17</sup>;
- 163 (9) for Havering and Redbridge, the returning officer for the London borough of Havering<sup>18</sup>;
- 164 (10) for Lambeth and Southwark, the returning officer for the London borough of Lambeth<sup>19</sup>;
- 165 (11) for Merton and Wandsworth, the returning officer for the London borough of Wandsworth<sup>20</sup>;
- 166 (12) for North East, the returning officer for the London borough of Waltham Forest<sup>21</sup>;
- 167 (13) for South West, the returning officer for the London borough of Hounslow<sup>22</sup>;
- 168 (14) for West Central, the returning officer for the City of Westminster<sup>23</sup>.

1 For these purposes, 'election' means an Authority election, that is, any election of the Mayor of London, any election of a constituency member of the London Assembly, or the election of the London members of the London Assembly at an ordinary election: Representation of the People Act 1983 s 202(1) (definition added by the Greater London Authority Act 1999 Sch 3 paras 1, 38(1), (2)(a)); Representation of the People Act 1983 s 203(1) (definition added by the Greater London Authority Act 1999 Sch 3 paras 1, 39(1), (2)). 'Election of the Mayor of London' means an election at an ordinary election or an election to fill a vacancy in the office of Mayor under the Greater London Authority Act 1999 s 16 (see PARA 127 post): Representation of the People Act 1983 s 203(1) (definition added by the Greater London Authority Act 1999 s 17, Sch 3 paras 1, 39(1), (2)). As to ordinary elections see PARA 89 ante. As to the Mayor of London see PARA 81 ante. As to the election of the Mayor see PARAS 89 ante, 100 post. As to the return of the Mayor see PARA 102 ante. As to constituency members see

PARAS 82 ante, 92 post. As to London members see PARAS 82 ante, 97 post. As to the London Assembly see PARA 82 ante.

2 As to the election of the London members see PARAS 89 ante, 100 post. As to the nomination of candidates to be London members see PARAS 98-99 post. As to the return of the London members see PARA 104 post.

3 le for the purposes of the Greater London Authority Act 1999 s 11: see PARA 115 post.

4 For the meaning of 'proper officer' see PARA 83 note 11 ante; definition applied by the Representation of the People Act 1983 s 203(1) (definition substituted by the Greater London Authority Act 1999 Sch 3 paras 1, 38(1), (2)(c)).

5 Representation of the People Act 1983 s 35(2C) (added by the Greater London Authority Act 1999 Sch 3 paras 1, 3(1), (2)). Provision for the designation of the returning officer as respects the first ordinary election (held on 4 May 2000 (see PARA 89 note 4 ante)) was made by the Greater London Authority Act 1999 s 3(4)(b); and the Greater London Authority (Elections and Acceptance of Office) Order 2000, SI 2000/308, arts 2, 3.

The council for any London borough must place the services of its officers at the disposal of any person acting as the returning officer at an Authority election for an electoral area situated wholly or partly in the borough: Representation of the People Act 1983 s 35(6) (added by the Greater London Authority Act 1999 Sch 3 paras 1, 3(1), (3)(1), (3)). As to the London boroughs and their councils see PARAS 30, 35-39, 59 et seq ante. 'Electoral area' means: (1) any electoral division or ward or, in the case of a parish or community in which there are no wards, the parish or community for which the election of councillors is held under the local government Act; (2) Greater London, in the case of any election of the Mayor of London or the election of the London members of the Assembly at an ordinary election; or (3) any Assembly constituency for which the election of a constituency member of the Assembly is held: Representation of the People Act 1983 s 203(1) (definition substituted by the Representation of the People Act 1985 s 24, Sch 4 para 71(a); and amended by the Greater London Authority Act 1999 Sch 3 paras 1, 39(1), (3)). 'Local government Act' means the Local Government Act 1972 (as amended) (see generally LOCAL GOVERNMENT vol 69 (2009) PARA 1 et seq); Representation of the People Act 1983 s 203(1) (definition amended by the Local Government Act 1985 s 19, Sch 9 para 1(1), (10)(c); and the Education Reform Act 1988 s 237(2), Sch 13 Pt I). For these purposes, a reference to an election under the local government Act includes a reference to an Authority election: see the Representation of the People Act 1983 s 203(1A) (added by the Greater London Authority Act 1999 Sch 3 paras 1, 39(1), (5)).

The returning officer at any election mentioned in the Representation of the People Act 1983 s 35(1)-(3) (as amended) may by writing under his hand appoint one or more persons to discharge all or any of his functions: s 35(4) (amended by the Education Reform Act 1988 s 237(1), Sch 12 para 50). See ELECTIONS AND REFERENDUMS vol 15(4) (2007 Reissue) PARA 359.

A local government election is not liable to be questioned by reason of a defect in the title, or want of title, of the person presiding at or conducting the election, if that person was then in actual possession of, or acting in, the office giving the right to preside at or conduct the election: see the Representation of the People Act 1983 s 35(5).

6 'Election of a constituency member of the London Assembly' means any such election at an ordinary election or an election to fill a vacancy in an Assembly constituency under the Greater London Authority Act 1999 s 10 (see PARA 114 post): Representation of the People Act 1983 s 203(1) (definition added by the Greater London Authority Act 1999 Sch 3 paras 1, 39(1), (2)). As to the Assembly constituencies see PARAS 93-96 post. As to the election of the constituency members see PARAS 89 ante, 100 post. As to the return of the constituency members see PARA 103 post.

7 Representation of the People Act 1983 s 35(2B) (added by the Greater London Authority Act 1999 Sch 3 paras 1, 3(1), (2)). As to the Secretary of State see PARA 12 note 2 ante. As to the making of orders generally see PARA 13 ante.

8 'Local government election' means the election of councillors for any electoral area or any Authority election: Representation of the People Act 1983 s 203(1) (definition amended by the Greater London Authority Act 1999 Sch 3 paras 1, 39(1), (4)(c)).

9 Greater London Authority (Assembly Constituencies and Returning Officers) Order 1999, SI 1999/3380, art 2(b).

10 Ibid art 2(b), Table.

11 Ibid art 2(b), Table.

12 Ibid art 2(b), Table.

13 Ibid art 2(b), Table.

- 14 Ibid art 2(b), Table.
- 15 Ibid art 2(b), Table.
- 16 Ibid art 2(b), Table.
- 17 Ibid art 2(b), Table.
- 18 Ibid art 2(b), Table.
- 19 Ibid art 2(b), Table.
- 20 Ibid art 2(b), Table.
- 21 Ibid art 2(b), Table.
- 22 Ibid art 2(b), Table.
- 23 Ibid art 2(b), Table.

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## ***B. CONSTITUENCY MEMBERS OF THE LONDON ASSEMBLY***

### **(A) CONSTITUENCY MEMBERS**

#### **92. Constituency members.**

The London Assembly<sup>1</sup> consists of 25 members, of whom 14 are members for Assembly constituencies<sup>2</sup>. These members are known as 'constituency members'<sup>3</sup>. There is one constituency member for each Assembly constituency<sup>4</sup>.

1 As to the London Assembly see PARA 82 ante.

2 Greater London Authority Act 1999 s 2(2)(a). As to the Assembly constituencies see PARAS 93-96 post.

3 Ibid s 2(2)(a).

4 Ibid s 2(3).

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## (B) THE CONSTITUENCIES

### 93. Assembly constituencies.

Under the rules relating to London Assembly constituencies<sup>1</sup>, there must be 14 Assembly constituencies<sup>2</sup>, each of which must consist of two or more entire London boroughs<sup>3</sup>. A part of the boundary<sup>4</sup> of each London borough contained within an Assembly constituency must adjoin a part of the boundary of at least one other London borough contained within that constituency<sup>5</sup>, and no London borough may be included in more than one Assembly constituency<sup>6</sup>. The electorate for an Assembly constituency must be as near the electorate for each other Assembly constituency as is reasonably practicable<sup>7</sup>.

The Assembly constituencies, and their areas, are specified<sup>8</sup> in an order made by the Secretary of State<sup>9</sup>, as follows:

- 169 (1) Barnet and Camden (the London boroughs of Barnet and Camden)<sup>10</sup>;
- 170 (2) Bexley and Bromley (the London boroughs of Bexley and Bromley)<sup>11</sup>;
- 171 (3) Brent and Harrow (the London boroughs of Brent and Harrow)<sup>12</sup>;
- 172 (4) City and East (the London borough of Barking and Dagenham, the City of London, and the London boroughs of Newham and Tower Hamlets)<sup>13</sup>;
- 173 (5) Croydon and Sutton (the London boroughs of Croydon and Sutton)<sup>14</sup>;
- 174 (6) Ealing and Hillingdon (the London boroughs of Ealing and Hillingdon)<sup>15</sup>;
- 175 (7) Enfield and Haringey (the London boroughs of Enfield and Haringey)<sup>16</sup>;
- 176 (8) Greenwich and Lewisham (the London boroughs of Greenwich and Lewisham)<sup>17</sup>;
- 177 (9) Havering and Redbridge (the London boroughs of Havering and Redbridge)<sup>18</sup>;
- 178 (10) Lambeth and Southwark (the London boroughs of Lambeth and Southwark)<sup>19</sup>;
- 179 (11) Merton and Wandsworth (the London boroughs of Merton and Wandsworth)<sup>20</sup>;
- 180 (12) North East (the London boroughs of Hackney, Islington and Waltham Forest)<sup>21</sup>;
- 181 (13) South West (the London boroughs of Hounslow, Kingston-upon-Thames and Richmond-upon-Thames)<sup>22</sup>;
- 182 (14) West Central (the London boroughs of Hammersmith and Fulham and Kensington and Chelsea, and the City of Westminster)<sup>23</sup>.

1 The rules contained in the Greater London Authority Act 1999 s 2(5), Sch 1 para 7(1): see the text and notes 2-7 *infra*. As to the London Assembly see PARA 82 *ante*.

2 *Ibid* Sch 1 para 7(1), r 1. As to the alteration of the constituencies see PARA 96 *post*.

3 *Ibid* Sch 1 para 7(1), r 2. As to the London boroughs see PARA 30 *ante*. For the purposes of Sch 1 para 7(1), any reference to a London borough includes a reference to the City of London, which for these purposes is taken to include the Inner Temple and the Middle Temple: Sch 1 para 7(2)(a). As to the City of London and the Temples see PARAS 31-32 *ante*.

4 For the purposes of *ibid* Sch 1 para 7(1), a part of a boundary which would, except for the River Thames or a tributary of the River Thames, adjoin a part of another boundary is deemed to adjoin that part of that other boundary: Sch 1 para 7(2)(b).

5 *Ibid* Sch 1 para 7(1), r 3.

6 *Ibid* Sch 1 para 7(1), r 4.

7 *Ibid* Sch 1 para 7(1), r 5.

8 *Ibid* for the purposes of *ibid* Pt I (ss 1-29) (as amended).

9 *Ibid* s 2(4). As to the Secretary of State see PARA 12 note 2 ante. As to the power to make orders generally see PARA 13 ante.

An order under s 2(4) may give effect, with or without modifications (which includes additions, alterations and omissions), to all or any of the recommendations contained in a report submitted by the Local Government Commission for England under Sch 1 para 1(4) (report recommending changes to Assembly constituencies in consequence of boundary changes: see PARA 96 post), Sch 1 para 2(1) (report recommending changes to Assembly constituencies following review by Commission: see PARA 94 post) or Sch 1 para 4(1)(b) (further report of Commission making revised recommendations: see PARA 95 post): s 2(5), Sch 1 para 8(1), (4). Orders could also be made to give effect to all or any of the recommendations contained in a report submitted by the Commission under the Greater London Authority (Referendum) Act 1998 s 7 (report of recommendations about electoral areas etc) or s 9 (further report of recommendations about electoral areas etc): see the Greater London Authority Act 1999 Sch 1 para 8(1). As to the Greater London Authority (Referendum) Act 1998 see PARA 6 ante. As to the Local Government Commission for England see LOCAL GOVERNMENT vol 69 (2009) PARA 56.

No order giving effect to recommendations made in a report under the Greater London Authority Act 1999 Sch 1 para 2(1) or a further report under Sch 1 para 4(1)(b) may be made before the end of the period of six weeks beginning with the submission of the report: Sch 1 para 8(2). Before making an order falling within Sch 1 para 8(2), the Secretary of State may by a direction require the Commission to supply him with such additional information as may be described in the direction: Sch 1 para 8(3). As to the giving of directions see PARA 13 ante.

Where the Secretary of State is satisfied that a mistake has occurred in the preparation of an order under s 2(4), and the mistake is such that it cannot be rectified by a subsequent order made thereunder by virtue of the Interpretation Act 1978 s 14 (implied power to amend: see STATUTES vol 44(1) (Reissue) PARAS 1338, 1526), he may by order make such provision as he thinks necessary or expedient for rectifying the mistake: Greater London Authority Act 1999 Sch 1 para 9(1). For these purposes, 'mistake' includes a provision contained in or omitted from the order in reliance on inaccurate or incomplete information: Sch 1 para 9(2).

10 Greater London Authority (Assembly Constituencies and Returning Officers) Order 1999, SI 1999/3380, art 2(a), Table.

11 *Ibid* art 2(a), Table.

12 *Ibid* art 2(a), Table.

13 *Ibid* art 2(a), Table.

14 *Ibid* art 2(a), Table.

15 *Ibid* art 2(a), Table.

16 *Ibid* art 2(a), Table.

17 *Ibid* art 2(a), Table.

18 *Ibid* art 2(a), Table.

19 *Ibid* art 2(a), Table.

20 *Ibid* art 2(a), Table.

21 *Ibid* art 2(a), Table.

22 *Ibid* art 2(a), Table.

23 *Ibid* art 2(a), Table.

**UPDATE**

**93-96 Constituency Members of the London Assembly**

Greater London Authority Act 1999 Sch 1 paras 1-5 substituted, Sch 1 para 7 amended, Sch 1 paras 8, 9 repealed: Local Democracy, Economic Development and Construction Act 2009 Sch 4 para 10.

**93 Assembly constituencies**

TEXT AND NOTE 9--Greater London Authority Act 1999 s 2(4) amended: Local Democracy, Economic Development and Construction Act 2009 Sch 4 para 9; SI 2001/3962. See further ELECTIONS AND REFERENDUMS (2007 Reissue) PARA 60-66. Greater London Authority Act 1999 Sch 1 paras 8, 9 repealed: Local Democracy, Economic Development and Construction Act 2009 Sch 7 Pt 3.



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#### **94. Review of Assembly constituencies.**

If the Secretary of State<sup>1</sup> at any time so directs<sup>2</sup>, the Local Government Commission for England<sup>3</sup> must carry out a comprehensive review of Assembly constituencies<sup>4</sup> and must submit to the Secretary of State a report<sup>5</sup> showing the areas into which it recommends Greater London<sup>6</sup> should be divided to form the Assembly constituencies<sup>7</sup> and stating the name by which it recommends that each Assembly constituency should be known<sup>8</sup>. No recommendations may be made by the Commission in such a report unless the recommendations comply with the rules about Assembly constituencies<sup>9</sup>.

Where a report is submitted to the Secretary of State<sup>10</sup>, he may direct the Commission to review its recommendations and submit a further report<sup>11</sup>.

1 As to the Secretary of State see PARA 12 note 2 ante.

2 A direction to submit a report under the Greater London Authority Act 1999 s 2(5), Sch 1 para 2(1) must specify the timetable in accordance with which the report is to be prepared, submitted and available for inspection under Sch 1: Sch 1 para 3(1). As to the giving of directions see PARA 13 ante.

3 As to the Local Government Commission for England see LOCAL GOVERNMENT vol 69 (2009) PARA 56. The Secretary of State may give directions as to the exercise by the Commission of any of its functions under ibid Sch 1: Sch 1 para 5. In particular, the directions may specify matters which the Commission must take into account in preparing a report (Sch 1 para 5(a)) and require the Commission to have regard to any guidance given by the Secretary of State as respects matters to be taken into account in preparing a report (Sch 1 para 5(b)).

4 As to the Assembly constituencies see PARA 93 ante.

5 As soon as reasonably practicable after being directed to submit a report under the Greater London Authority Act 1999 Sch 1 para 2(1), the Commission must take such steps as it considers sufficient to secure that persons who may be interested in the subject-matter of the report are informed of the direction requiring the report to be submitted, including, in particular, the period specified in the timetable within which representations with respect to the subject-matter of the report may be made to the Commission (Sch 1 para 3(2)(a)), and any direction under Sch 1 para 5 (see note 3 supra) (Sch 1 para 3(2)(b)).

Before submitting its report, the Commission must: (1) take into consideration any representations made to it within the period mentioned in Sch 1 para 3(2)(a) (see Sch 1 para 3(3)(a)); (2) prepare a draft report and take such steps as it considers sufficient to secure that persons who may be interested in the report are informed of it and of the period specified in the timetable within which representations with respect to it may be made (see Sch 1 para 3(3)(b)); (3) deposit copies of the draft report at the principal office of the Greater London Authority, each London borough council and the Common Council of the City of London (see Sch 1 para 3(3)(c)); and (4) take into consideration representations made to the Commission within the period mentioned in Sch 1 para 3(3)(b) (see Sch 1 para 3(3)(d)). As to the establishment of the Greater London Authority see PARA 79 ante. As to the London boroughs and their councils see PARAS 30, 35-39, 59 et seq ante. As to the Common Council of the City of London see PARA 51 et seq ante.

As soon as the Commission is in a position to submit its report to the Secretary of State (and in any event not later than the date specified in the timetable for submission of the report), it must: (a) submit the report to him (Sch 1 para 3(4)(a)); (b) take such steps as it considers sufficient to secure that persons who may be interested in the report are informed of it and of the period specified in the timetable within which it may be inspected (Sch 1 para 3(4)(b)); and (c) deposit copies of the report at the principal office of each London borough council and the Common Council of the City of London (Sch 1 para 3(4)(c)).

Copies of the draft report deposited under Sch 1 para 3(3)(c), and of the report deposited under Sch 1 para 3(4)(c), must be kept available for inspection at the offices concerned in accordance with the timetable: Sch 1 para 3(5).

- 6 As to Greater London see PARA 29 ante.
- 7 Greater London Authority Act 1999 s 2(5), Sch 1 para 2(1)(a).
- 8 Ibid Sch 1 para 2(1)(b).
- 9 Ibid Sch 1 para 2(2). As to the rules about Assembly constituencies see Sch 1 para 7; and PARA 93 ante.
- 10 Ie in accordance with a direction under ibid Sch 1 para 2(1): see the text and notes 1-8 supra.
- 11 See PARA 95 post.

## **UPDATE**

### **93-96 Constituency Members of the London Assembly**

Greater London Authority Act 1999 Sch 1 paras 1-5 substituted, Sch 1 para 7 amended, Sch 1 paras 8, 9 repealed: Local Democracy, Economic Development and Construction Act 2009 Sch 4 para 10.

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## **95. Review of recommendations made in reports of reviews of Assembly constituencies.**

Where a report of a review of the Assembly constituencies<sup>1</sup> is submitted to the Secretary of State<sup>2</sup>, he may, if he thinks fit, direct the Local Government Commission for England<sup>3</sup> to review such of the recommendations made in the report as may be specified in the direction<sup>4</sup> and to submit a further report<sup>5</sup> making revised recommendations as respects the areas into which Greater London<sup>6</sup> should be divided to form the Assembly constituencies<sup>7</sup> and the name by which each Assembly constituency should be known<sup>8</sup>. No recommendations may be made by the Commission in a further report unless the recommendations comply with the rules about Assembly constituencies<sup>9</sup>.

1 As to the Assembly constituencies see PARA 93 ante.

2 In accordance with a direction under the Greater London Authority Act 1999 s 2(5), Sch 1 para 2(1): see PARA 94 ante. As to the giving of directions see PARA 13 ante. As to the Secretary of State see PARA 12 note 2 ante.

3 As to the Local Government Commission for England see LOCAL GOVERNMENT vol 69 (2009) PARA 56. The Secretary of State may give directions as to the exercise by the Commission of any of its functions under ibid Sch 1: Sch 1 para 5. In particular, the directions may specify matters which the Commission must take into account in preparing a report (Sch 1 para 5(a)) and require the Commission to have regard to any guidance given by the Secretary of State as respects matters to be taken into account in preparing a report (Sch 1 para 5(b)).

4 Ibid Sch 1 para 4(1)(a).

5 Ibid Sch 1 para 3 (see PARA 94 note 5 ante) applies, with such modifications as may be specified in the direction under Sch 1 para 4(1), in relation to any further report submitted under Sch 1 para 4(1)(b): Sch 1 para 4(2).

6 As to Greater London see PARA 29 ante.

7 Greater London Authority Act 1999 Sch 1 para 4(1)(b)(i).

8 Ibid Sch 1 para 4(1)(b)(ii).

9 Ibid Sch 1 para 4(3). As to the rules about Assembly constituencies see Sch 1 para 7; and PARA 93 ante.

## **UPDATE**

### **93-96 Constituency Members of the London Assembly**

Greater London Authority Act 1999 Sch 1 paras 1-5 substituted, Sch 1 para 7 amended, Sch 1 paras 8, 9 repealed: Local Democracy, Economic Development and Construction Act 2009 Sch 4 para 10.

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## **96. Alteration of Assembly constituencies following review of local government areas.**

Where an order specifying the names and areas of the Assembly constituencies has effect<sup>1</sup> and the Local Government Commission for England<sup>2</sup> recommends, as a result of a review conducted by it<sup>3</sup>, that the Secretary of State should make a boundary change<sup>4</sup> altering a local government area<sup>5</sup>, constituting a new London borough<sup>6</sup>, or abolishing a London borough<sup>7</sup>, then:

- 183 (1) if the Commission is of the opinion that, in consequence of the recommended boundary change<sup>8</sup>, changes are required to Assembly constituencies<sup>9</sup> in order to comply with the rules about Assembly constituencies<sup>10</sup>, it must submit a report which recommends to the Secretary of State the changes which in its opinion should be made to Assembly constituencies to comply with those rules<sup>11</sup>;
- 184 (2) if the Commission is not of that opinion, it must submit a report which states that fact<sup>12</sup>; and
- 185 (3) if the Commission is of the opinion that a comprehensive review of Assembly constituencies is required in consequence of the recommended boundary changes, it must submit a report which recommends to the Secretary of State that such a review be carried out<sup>13</sup>.

1    le an order under the Greater London Authority Act 1999 s 2(4): see PARA 93 ante.

2    As to the Local Government Commission for England see LOCAL GOVERNMENT vol 69 (2009) PARA 56. The Secretary of State may give directions as to the exercise by the Commission of any of its functions under *ibid* Sch 1: see Sch 1 para 5. In particular, the directions may specify matters which the Commission must take into account in preparing a report (Sch 1 para 5(a)) and require the Commission to have regard to any guidance given by the Secretary of State as respects matters to be taken into account in preparing a report (Sch 1 para 5(b)). As to the giving of directions see PARA 13 ante. 'Guidance' means guidance in writing: s 424(1). As to the Secretary of State see PARA 12 note 2 ante.

3    le a review conducted, on the direction of the Secretary of State, under the Local Government Act 1992 s 13(1) (as substituted) (see ELECTIONS AND REFERENDUMS vol 15(3) (2007 Reissue) PARA 92) for the purpose of considering whether structural changes, boundary changes or electoral changes should be made in relation to an area or areas in England, or a further review conducted for that purpose under s 15(6) (see ELECTIONS AND REFERENDUMS): Greater London Authority Act 1999 s 2(5), Sch 1 para 1(a), (b). For the meanings of 'structural change', 'boundary change' and 'electoral change' see the Local Government Act 1992 s 14 (as amended); and LOCAL GOVERNMENT vol 69 (2009) PARA 57 et seq.

4    Greater London Authority Act 1999 Sch 1 para 1(1).

5    Ibid Sch 1 para 1(2)(a). The boundary change in question is one falling within the Local Government Act 1992 s 14(3)(a) (see LOCAL GOVERNMENT vol 69 (2009) PARA 57 et seq). As to local government areas and authorities in England see LOCAL GOVERNMENT vol 69 (2009) PARA 24.

6    Greater London Authority Act 1999 Sch 1 para 1(2)(b). The boundary change in question is one falling within the Local Government Act 1992 s 14(3)(d) (see LOCAL GOVERNMENT vol 69 (2009) PARA 57 et seq). As to the London boroughs see PARA 30 ante.

7    Greater London Authority Act 1999 Sch 1 para 1(2)(c). The boundary change in question is one falling within the Local Government Act 1992 s 14(3)(e) (see LOCAL GOVERNMENT vol 69 (2009) PARA 57 et seq).

8    le the boundary changes mentioned in the Greater London Authority Act 1999 Sch 1 para 1(1) (see notes 4-7 *supra*).

9 As to the Assembly constituencies see PARA 93 ante.

10 As to the rules about Assembly constituencies see the Greater London Authority Act 1999 Sch 1 para 7; and PARA 93 ante.

11 Ibid Sch 1 para 1(3), (4). See note 13 infra.

12 Ibid Sch 1 para 1(3), (5). See note 13 infra.

13 Ibid Sch 1 para 1(3), (6). Where a report is required under Sch 1 para 1(6), no report is required under Sch 1 para 1(4) (see the text and notes 8-11 supra) or Sch 1 para 1(5) (see the text and note 12 supra) unless the Commission is of the opinion that a report under Sch 1 para 1(4) ought to be submitted for the purposes of the next ordinary election, in which case the Commission must submit such a report in addition to the report required by Sch 1 para 1(6): Sch 1 para 1(7). As to ordinary elections see PARA 89 ante.

## **UPDATE**

### **93-96 Constituency Members of the London Assembly**

Greater London Authority Act 1999 Sch 1 paras 1-5 substituted, Sch 1 para 7 amended, Sch 1 paras 8, 9 repealed: Local Democracy, Economic Development and Construction Act 2009 Sch 4 para 10.

### **96 Alteration of Assembly constituencies following review of local government areas**

NOTES 3-7--Local Government Act 1992 s 14 repealed: Local Democracy, Economic Development and Construction Act 2009 Sch 7 Pt 3.

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### ***C. LONDON MEMBERS OF THE LONDON ASSEMBLY***

#### **(A) LONDON MEMBERS**

##### **97. London members.**

The London Assembly<sup>1</sup> consists of 25 members, of whom 11 are members for the whole of Greater London<sup>2</sup> rather than for constituencies<sup>3</sup>. These members are known as 'London members'<sup>4</sup>.

1 As to the London Assembly see PARA 82 ante.

2 Greater London Authority Act 1999 s 2(2)(b). As to Greater London see PARA 29 ante.

3 As to constituency members see PARAS 82, 92 ante. As to the Assembly constituencies see PARAS 93-96 ante.

4 Greater London Authority Act 1999 s 2(2)(b).

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## (B) LONDON MEMBER CANDIDATES

### **98. Party lists of candidates to be London members.**

Any registered political party<sup>1</sup> may submit to the Greater London returning officer<sup>2</sup> a list of candidates to be London members<sup>3</sup>. The list has effect in relation to the ordinary election<sup>4</sup> and any vacancies among the London members<sup>5</sup> which occur after that election and before the next ordinary election<sup>6</sup>. The list must not include more than 25 persons (but may include only one)<sup>7</sup>, and must not include a person who is a candidate to be a constituency member<sup>8</sup> but who is not a candidate of that party<sup>9</sup>, who is included on any other list submitted for the election of London members<sup>10</sup>, or who is an individual candidate to be a London member<sup>11</sup>.

1 For the meaning of 'registered political party' see PARA 90 note 7 ante.

2 Greater London Authority Act 1999 s 4(6), Sch 2 para 5(2). 'Greater London returning officer' means the person who is for the time being the proper officer of the Greater London Authority for the purposes of the Representation of the People Act 1983 s 35(2C) (as added) (returning officer at elections of Mayor and London members: see PARA 91 ante); Greater London Authority Act 1999 s 29. For the meaning of 'proper officer' see PARA 83 note 11 ante.

3 Ibid s 4(6), Sch 2 para 5(1). As to London members see PARAS 82, 97 ante. The London members are returned via the London vote, ie the vote which may be given for a registered political party which has submitted a list of candidates to be London members or for an individual who is a candidate to be a London member: see s 4(1)(c), (5); and PARA 90 ante. As to the meaning of 'vote' see PARA 102 note 5 post. As to the return of London members see PARA 104 post.

4 As to ordinary elections see PARA 89 ante. As to voting at ordinary elections see PARA 90 ante.

5 See PARA 106 et seq post.

6 Greater London Authority Act 1999 Sch 2 para 5(3).

7 Ibid Sch 2 para 5(4).

8 As to constituency members see PARAS 82, 92 ante.

9 Greater London Authority Act 1999 Sch 2 para 5(5)(a).

10 Ibid Sch 2 para 5(5)(b).

11 Ibid Sch 2 para 5(5)(c). Similarly, a person may not be an individual candidate to be a London member if he is included on a list submitted by a registered political party for the election of London members: see Sch 2 para 5(6)(a); and PARA 99 post.

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**99. Individual candidates to be London members.**

A person may not be an individual candidate to be a London member<sup>1</sup> if he is included on a list submitted by a registered political party for the election of London members<sup>2</sup> or he is a candidate of any registered political party to be the Mayor of London<sup>3</sup> or a constituency member<sup>4</sup>.

1 As to London members see PARAS 82, 97 ante. The London members are returned via the London vote, ie the vote which may be given for a registered political party which has submitted a list of candidates to be London members or for an individual who is a candidate to be a London member: see the Greater London Authority Act 1999 s 4(1)(c), (5); and PARA 90 ante. For the meaning of 'registered political party' see PARA 90 note 7 ante. As to the meaning of 'vote' see PARA 102 note 5 post. As to the return of London members see PARA 104 post.

2 Ibid s 4(6), Sch 2 para 5(6)(a). Similarly, a person who is an individual candidate to be a London member cannot be included on a list of candidates to be London members submitted by a registered political party: see Sch 2 para 5(5)(c); and PARA 98 ante.

3 As to the Mayor of London see PARA 81 ante.

4 Greater London Authority Act 1999 Sch 2 para 5(6). As to constituency members see PARAS 82, 92 ante.



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## ***D. ELECTION AND RETURN OF MAYOR OF LONDON AND ASSEMBLY MEMBERS***

### **100. Election and term of office of the Mayor of London and Assembly members.**

The Mayor of London<sup>1</sup> and the Assembly members<sup>2</sup> are returned in accordance with provision made in or by virtue of the Greater London Authority Act 1999 for the holding of ordinary elections<sup>3</sup> of the Mayor, the constituency members<sup>4</sup> and the London members<sup>5</sup>, and for the filling of vacancies in the office of Mayor or among the constituency members or the London members<sup>6</sup>. The term of office of the Mayor and Assembly members returned at an ordinary election begins on the second day after the day on which the last of the successful candidates at the ordinary election is declared to be returned<sup>7</sup>, and ends on the second day after the day on which the last of the successful candidates at the next ordinary election is declared to be returned<sup>8</sup>.

1 As to the Mayor of London see PARA 81 ante.

2 For the meaning of 'Assembly member' see PARA 82 note 3 ante. As to the London Assembly see PARA 82 ante.

3 As to ordinary elections see PARA 89 ante.

4 As to constituency members see PARAS 82, 92 ante.

5 Greater London Authority Act 1999 s 2(6)(a). As to London members paras 82, 97 ante.

6 Ibid s 2(6)(b). As to the filling of vacancies see PARAS 114-115, 127 et seq post.

7 Ibid s 2(8)(a). Section 2(8) is subject to the other provisions of the Greater London Authority Act 1999: see s 2(8). In particular, special provision could be made by order by virtue of s 3(4) in relation to the first ordinary election (see PARA 89 note 4 ante): see s 2(8). As respects the first ordinary election, the Secretary of State had power by order to make provision modifying s 2(8) in relation to the Mayor and Assembly members returned at that election: s 3(4)(a). No such order was made. As to the Secretary of State see PARA 12 note 2 ante.

If at any ordinary election the poll at the election of an Assembly member for an Assembly constituency is countermanded or abandoned for any reason, the day on which the last of the successful candidates at the ordinary election is declared to be returned must be determined for the purposes of s 2(8) without regard to the return of the Assembly member for that Assembly constituency: s 2(9). As to the Assembly constituencies see PARAS 93-96 ante.

8 Ibid s 2(8)(b). See note 7 supra.

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### **101. Order of return of Mayor of London and Assembly members.**

The persons who are to be returned as the Mayor of London<sup>1</sup> and the constituency members<sup>2</sup> must be determined before it is determined who are to be returned as the London members<sup>3</sup>. However, if the poll at the election of an Assembly member for an Assembly constituency<sup>4</sup> is countermanded or abandoned for any reason, the persons who are to be returned as the London members must be determined without regard to the determination of the Assembly member for that Assembly constituency<sup>5</sup>.

1 As to the Mayor of London see PARA 81 ante. As to the return of the Mayor see PARA 102 post.

2 As to constituency members see PARAS 82, 92 ante. As to the return of the constituency members see PARA 103 post.

3 Greater London Authority Act 1999 s 4(7). As to London members see PARAS 82, 97 ante. The London members are the Assembly members returned via the London vote, ie the vote which may be given for a registered political party which has submitted a list of candidates to be London members or for an individual who is a candidate to be a London member: see s 4(1)(c), (5); and PARA 90 ante. For the meaning of 'Assembly member' see PARA 82 note 3 ante. For the meaning of 'registered political party' see PARA 90 note 7 ante. As to the meaning of 'vote' see PARA 102 note 5 post. As to the return of London members see PARA 104 post.

4 As to the Assembly constituencies see PARAS 93-96 ante.

5 Greater London Authority Act 1999 s 4(8).

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## **102. Return of Mayor of London.**

The Mayor of London<sup>1</sup> is returned<sup>2</sup> under the simple majority system, unless there are three or more candidates to be the Mayor<sup>3</sup>, in which case the Mayor must be returned under the supplementary vote system<sup>4</sup> and a voter's<sup>5</sup> mayoral vote<sup>6</sup> will be a vote capable of being given to indicate the voter's first and second preferences from among the candidates<sup>7</sup>.

Where the supplementary vote system is applied, if one of the candidates to be the Mayor receives more than half of all the first preference votes<sup>8</sup> given in the Assembly constituencies<sup>9</sup> that candidate is returned as the Mayor<sup>10</sup>. If none of the candidates receives more than half of all the first preference votes given in the Assembly constituencies<sup>11</sup>, the two candidates who received the greatest number of such votes remain in the contest<sup>12</sup> (the other candidates being eliminated<sup>13</sup>), and the number of second preference votes<sup>14</sup> given in the Assembly constituencies for each of the remaining candidates by voters who did not give their first preference vote to any of those candidates is ascertained<sup>15</sup> and added to the number of first preference votes given for that candidate, to give his total number of preference votes<sup>16</sup>. The person who is to be returned as the Mayor is that one of the remaining candidates who has the greatest total number of preference votes<sup>17</sup>.

If the person who is returned as the Mayor is also returned as an Assembly member<sup>18</sup> for an Assembly constituency, a vacancy arises in the Assembly constituency<sup>19</sup>.

1 As to the Mayor generally see PARA 81 ante.

2 As to the order of return of the Mayor and the Assembly members see PARA 101 ante.

3 Greater London Authority Act 1999 s 4(2).

4 *Ie* in accordance with *ibid* Sch 2 Pt I (see the text and notes 5-17 *infra*).

5 'Voter' means a person voting at an election and includes a person voting as proxy and, except in the parliamentary elections rules (see ELECTIONS AND REFERENDUMS vol 15(3) (2007 Reissue) PARA 110), and the rules under the Representation of the People Act 1983 s 36 (as amended) (see ELECTIONS AND REFERENDUMS vol 15(4) (2007 Reissue) PARA 388), a person voting by proxy; and 'vote' (whether noun or verb) is construed accordingly, except that in the parliamentary elections rules any reference to an elector voting or an elector's vote includes a reference to an elector voting by proxy or an elector's vote given by proxy: Representation of the People Act 1983 s 202(1); definition applied by the Greater London Authority Act 1999 s 29(1). See ELECTIONS AND REFERENDUMS vol 15(3) (2007 Reissue) PARA 110). For the meaning of 'elector' see PARA 85 note 10 ante.

6 For the meaning of 'mayoral vote' see PARA 90 ante.

7 Greater London Authority Act 1999 s 4(3), Sch 2 para 1. In such circumstances a voter's mayoral vote is known as a 'supplementary vote'. Provision is made for the electronic counting of votes: see the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 2(1), Sch 6.

8 For the purposes of the Greater London Authority Act 1999 Sch 2 Pt I, 'first preference vote' means a mayoral vote to the extent that it is given so as to indicate a voter's first preference from among the candidates to be the Mayor: Sch 2 para 2.

9 As to the Assembly constituencies see PARAS 93-96 ante.

10 Greater London Authority Act 1999 Sch 2 para 3.

11 *Ibid* Sch 2 para 4(1).

12 Ibid Sch 2 para 4(2). If, by reason of an equality of first preference votes, three or more candidates are qualified to remain in the contest by virtue of Sch 2 para 4(2), all of them remain in the contest: Sch 2 para 4(3).

13 Ibid Sch 2 para 4(4).

14 For the purposes of ibid Sch 2 Pt I, 'second preference vote' means a mayoral vote to the extent that it is given so as to indicate a voter's second preference from among the candidates to be the Mayor: Sch 2 para 2.

15 Ibid Sch 2 para 4(5).

16 Ibid Sch 2 para 4(6).

17 Ibid Sch 2 para 4(7). If, by reason of an equality of total number of preference votes, two or more of the remaining candidates each have the greatest total number of preference votes, the Greater London returning officer must decide by lots which of them is returned as the Mayor: Sch 2 para 4(8). For the meaning of 'Greater London returning officer' see PARA 98 note 2 ante.

18 For the meaning of 'Assembly member' see PARA 82 note 3 ante.

19 Greater London Authority Act 1999 s 4(10). See PARA 109 post.

## **UPDATE**

### **102 Return of Mayor of London**

NOTE 7--SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541.

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### **103. Return of constituency members.**

The Assembly member<sup>1</sup> for an Assembly constituency<sup>2</sup> is returned under the simple majority system<sup>3</sup>.

1 For the meaning of 'Assembly member' see PARA 82 note 3 ante.

2 As to the Assembly constituencies see PARAS 93-96 ante. As to constituency members see PARAS 82, 92 ante.

3 Greater London Authority Act 1999 s 4(4). As to the order of return of the Mayor and the Assembly members see PARA 101 ante. Provision is made for the electronic counting of votes: see the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 2(1), Sch 6.

#### **UPDATE**

### **103 Return of constituency members**

NOTE 3--SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541.

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#### **104. Return of London members.**

The first of the seats for the London members<sup>1</sup> is allocated to the party or individual candidate with the highest London figure<sup>2</sup>. The London figure for a party to which a seat has been allocated is then recalculated<sup>3</sup> and the second and subsequent seats for London members are allocated to the party or individual candidate with the highest London figure based on that and subsequent recalculations<sup>4</sup>. An individual candidate already returned as the Mayor of London<sup>5</sup> or as an Assembly member is disregarded for the purposes of the allocation of seats to London members<sup>6</sup>. Seats for London members which are allocated to a party are filled by the persons on the party's list in the order in which they appear on the list<sup>7</sup>, and once a party's list has been exhausted<sup>8</sup> the party is disregarded<sup>9</sup>.

1 As to the London members see PARAS 82, 97 ante. The London members are the Assembly members returned via the London vote, ie the vote which may be given for a registered political party which has submitted a list of candidates to be London members or for an individual who is a candidate to be a London member: see the Greater London Authority Act 1999 s 4(1)(c), (5); and PARA 90 ante. For the meaning of 'Assembly member' see PARA 82 note 3 ante. For the meaning of 'registered political party' see PARA 90 note 7 ante. As to the meaning of 'vote' see PARA 102 note 5 ante. As to the order of return of the Mayor and the Assembly members see PARA 101 ante.

2 Greater London Authority Act 1999 s 4(6), Sch 2 para 8(1). The London figure for each registered political party by which a list of candidates has been submitted for the election of London members (see PARA 98 ante) is arrived at (Sch 2 para (3)(a)) by adding together the number of London votes given for the party in the Assembly constituencies (Sch 2 para 6(1)(a)) and dividing the number thereby arrived at by the aggregate of one and the number of candidates of the party returned as constituency members (Sch 2 para 6(1)(b)). If a person who is a candidate of a registered political party in an Assembly constituency is returned as the Assembly member for the constituency and is also returned as the Mayor of London, that person counts for the purposes of Sch 2 para 6(1)(b) as a candidate of the party returned as a constituency member, notwithstanding that a vacancy arises in the Assembly constituency by virtue of s 4(10): see Sch 2 para 6(4). If the number arrived at under Sch 2 para 6(1)(a) is not more than 5% of the total number of London votes polled by all the registered political parties and all the individual candidates at the election, none of the seats for London members are allocated to that party (Sch 2 para 7(1)(a)), and that party is accordingly left out of account in applying Sch 2 para 8 (Sch 2 para 7(1)(a), (2)). As to the Assembly constituencies see PARAS 93-96 ante. As to constituency members see PARAS 82, 92 ante. For the meaning of 'Assembly member' see PARA 82 note 3 ante.

The London figure for each individual candidate to be a London member (see PARA 99 ante) is arrived at (Sch 2 para (3)(b)) by adding together the number of London votes given for that candidate in the Assembly constituencies (Sch 2 para 6(2)). If the number arrived at under Sch 2 para 6(2) is not more than 5% of the total number of London votes polled by all the registered political parties and all the individual candidates at the election, none of the seats for London members are allocated to that individual candidate (Sch 2 para 7(1)(b)), and that candidate is accordingly left out of account in applying Sch 2 para 8 (Sch 2 para 7(1)(b), (2)).

If (on the application of Sch 2 para 8(1) or any application of Sch 2 para 8(2) (see the text and note 4 infra)) the highest London figure is the London figure of two or more parties or individual candidates, Sch 2 para 8(1) or, as the case may be, Sch 2 para 8(2), applies to each of them: Sch 2 para 8(7). However, where the operation of Sch 2 para 8(7) would mean that more than the full number of seats for London members was allocated, neither Sch 2 para 8(1) nor Sch 2 para 8(2) applies until a recalculation has been carried out under Sch 2 para 6(1)(b) after adding one to the number of votes given for each party with that London figure, and one has been added to the number of votes given for each individual candidate with that London figure: Sch 2 para 8(8). If, after that, the highest London figure is still the London figure of two or more parties or individual candidates, the Greater London returning officer must decide between them by lots: Sch 2 para 8(9). For the meaning of 'Greater London returning officer' see PARA 98 note 2 ante.

Provision is made for the electronic counting of votes: see the Greater London Authority Elections (No 2) Rules 2000, SI 2000/427, r 2(1), Sch 6.

3 Where the first allocation of seats (ie the application of the Greater London Authority Act 1999 Sch 2 para 8(1): see note 2 supra) has resulted in the allocation of a seat to a party, then for the purposes of the second allocation of seats (ie the first application of Sch 2 para 8(2)), that party's London figure must be recalculated after adding one to the aggregate amount mentioned in Sch 2 para 6(1)(b): Sch 2 para 8(3)(a). Where any further allocation of seats (ie any subsequent application of Sch 2 para 8(2)) has resulted in the allocation of a seat to a party, then for the purposes of the subsequent allocation of seats (ie any further application of Sch 2 para 8(2)), that party's London figure must be recalculated after adding one to the aggregate amount mentioned in Sch 2 para 6(1)(b): Sch 2 para 8(3)(b).

4 Ibid Sch 2 para 8(2). See also note 2 supra.

5 As to the Mayor of London see PARA 81 ante.

6 Greater London Authority Act 1999 Sch 2 para 8(4).

7 Ibid Sch 2 para 8(5). For the purposes of s 11 (see PARA 115 post) and of Sch 2 para 8(5), a person included on a list submitted by a registered political party who is returned as the Mayor or as an Assembly member is treated as ceasing to be on the list (even if his return is void): Sch 2 para 8(10).

8 Ie by the return of persons included on it as constituency members or by the previous application of ibid Sch 2 para 8(1) or Sch 2 para 8(2).

9 Ibid Sch 2 para 8(6).

## **UPDATE**

### **104 Return of London members**

NOTE 2--SI 2000/427 replaced: Greater London Authority Elections Rules 2007, SI 2007/3541.

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### **105. Declaration of acceptance of office.**

A person elected<sup>1</sup> to the office of Mayor of London<sup>2</sup> or of an Assembly member<sup>3</sup> may not act in that office unless he has made a declaration of acceptance of the office in a form prescribed in an order made by the Secretary of State<sup>4</sup> and, within two months from the day of the election<sup>5</sup>, the declaration has been delivered to the proper officer of the Greater London Authority<sup>6</sup>. If a declaration of acceptance of office is not made and delivered to the proper officer within the two-month time limit, the office of the person elected becomes vacant at the expiration of that time limit<sup>7</sup>.

No salary<sup>8</sup>, and no payment towards the provision of superannuation benefits<sup>9</sup>, may be paid<sup>10</sup> to or in respect of the Mayor or an Assembly member until he has complied with the requirements as to the making and delivery of acceptance of office<sup>11</sup>, although this does not affect any entitlement of the Mayor or an Assembly member to payments in respect of the period before he complies with those requirements once he has complied with them<sup>12</sup>.

1 As to election and term of office see PARA 100 ante.

2 As to the Mayor of London see PARA 81 ante.

3 For the meaning of 'Assembly member' see PARA 82 note 3 ante.

4 Greater London Authority Act 1999 s 28(1)(a). For the prescribed form see the Greater London Authority (Elections and Acceptance of Office) Order 2000, SI 2000/308, art 4(a), (b), Schedule. As to the Secretary of State see PARA 12 note 2 ante. As to the making of orders generally see PARA 13 ante.

The declaration must be made before: (1) two members of the London Assembly (Greater London Authority Act 1999 s 28(3)(a)); (2) the proper officer of the Authority (s 28(3)(b)); (3) a justice of the peace or magistrate in the United Kingdom, the Channel Islands or the Isle of Man (s 28(3)(c)); or (4) a commissioner appointed to administer oaths in the Supreme Court (s 28(3)(d)). Any person before whom a declaration is authorised to be made under s 28(3) may take the declaration: s 28(4). As respects the first ordinary election of the Authority (held on 4 May 2000: see s 3(1); and PARA 89 ante), the declarations were required to be made before the person who was, by virtue of his appointment under s 407 (see PARA 16 ante), for the time being the head of the Authority's paid service (see s 28(5), (6)(a); and the Greater London Authority (Elections and Acceptance of Office) Order 2000, SI 2000/308, art 5(1), (2)(a), (3)), and could be taken by the person before whom declarations as respects that election were required to be made (see the Greater London Authority Act 1999 s 28(5), (6)(b); and the Greater London Authority (Elections and Acceptance of Office) Order 2000, SI 2000/308, art 5(1), (2)(b), (3)). For the meaning of 'United Kingdom' see PARA 26 note 2 ante. As to the head of the Authority's paid service see PARA 136 post.

5 As to the holding of elections see PARA 89 ante.

6 Greater London Authority Act 1999 s 28(1)(b). As to the establishment of the Greater London Authority see PARA 79 ante. For the meaning of 'proper officer' see PARA 83 note 11 ante. See note 4 supra.

As respects the first ordinary election of the Authority, declarations of acceptance of office of the Mayor and the Assembly members were required to be delivered to the person who was, by virtue of his appointment under s 407 (see PARA 16 ante), for the time being the head of the Authority's paid service, instead of to the proper officer of the Authority, and were then required to be transmitted by that person to the proper officer when one was appointed, and consequential amendments were made to the form of declaration: see s 28(5), (6)(c), (d); and the Greater London Authority (Elections and Acceptance of Office) Order 2000, SI 2000/308, art 5(1), (2)(c), (d), (3).

7 Greater London Authority Act 1999 s 28(2). See further as to vacancies arising in these circumstances paras 110, 119 post.



- 8 As to the payment of salaries to the Mayor and the Assembly members see PARA 131 post.
- 9 As to the provision of superannuation benefits see PARA 132 post.
- 10 le under the Greater London Authority Act 1999.
- 11 Ibid s 28(7). The requirements referred to in the text are the requirements of s 28(1) (see the text and notes 1-6 supra).
- 12 Ibid s 28(8).

## **UPDATE**

### **105 Declaration of acceptance of office**

NOTE 4--In Greater London Authority Act 1999 s 28(3)(d) for 'Supreme Court' substitute 'Senior Courts': Constitutional Reform Act 2005 Sch 11 para 4 (in force 1 October 2009: SI 2009/1604).

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#### **(iv) Vacancy and Inability to Act**

### **A. VACANCIES IN ASSEMBLY MEMBERSHIP**

#### **(A) IN GENERAL**

#### **106. General provisions as to vacancies.**

The proper officer<sup>1</sup> of the Greater London Authority<sup>2</sup> must give written notice<sup>3</sup> of any casual vacancy<sup>4</sup> among the London members<sup>5</sup> to the Greater London returning officer<sup>6</sup>, and give public notice of any casual vacancy among the constituency members<sup>7</sup>. Any such notice<sup>8</sup> must be given as soon as practicable after the date on which the vacancy is to be regarded as occurring<sup>9</sup>.

The validity of proceedings of the London Assembly<sup>10</sup> is not affected by any vacancy in its membership<sup>11</sup>, nor is the validity of anything done by the Authority affected by any vacancy in the membership of the Assembly<sup>12</sup>.

1 For the meaning of 'proper officer' see PARA 83 note 11 ante.

2 As to the establishment of the Greater London Authority see PARA 79 ante.

3 For the meaning of 'notice' see PARA 83 note 10 ante.

4 As to the circumstances in which vacancies in the Assembly may arise see PARAS 107-113 post. As to the filling of vacancies see PARAS 114-115 post.

5 As to London members see PARAS 82, 97 ante.

6 Greater London Authority Act 1999 s 9(2)(a). For the meaning of 'Greater London returning officer' see PARA 98 note 2 ante.

7 Ibid s 9(2)(b). Any public notice under s 9(2)(b) must be given by posting the notice in some conspicuous place or places in the Assembly constituency concerned and in such other manner, if any, as the Greater London returning officer considers desirable for giving publicity to the notice: s 9(3). As to constituency members see PARAS 82, 92 ante. As to the Assembly constituencies see PARAS 93-96 ante.

8 I.e any notice under ibid s 9(2).

9 Ibid s 9(4). The reference in the text to the date on which the vacancy is to be regarded as occurring is a reference to the date on which the vacancy is to be regarded as occurring under s 9(1): see PARAS 107-113 ante.

10 As to the London Assembly see PARA 82 ante.

11 Greater London Authority Act 1999 s 2(10).

12 Ibid s 2(11).

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## (B) CIRCUMSTANCES IN WHICH VACANCIES MAY ARISE

### **107. Vacancy arising on resignation of Assembly member.**

An Assembly member<sup>1</sup> may at any time resign his membership of the London Assembly<sup>2</sup> by giving notice<sup>3</sup> to the proper officer<sup>4</sup> of the Greater London Authority<sup>5</sup>. Any such resignation takes effect, and for the purpose of filling a casual vacancy<sup>6</sup> in the membership of the Assembly arising by virtue of a resignation is regarded as occurring, on the officer's receipt of the notice<sup>7</sup>.

1 For the meaning of 'Assembly member' see PARA 82 note 3 ante.

2 As to the London Assembly see PARA 82 ante.

3 For the meaning of 'notice' see PARA 83 note 10 ante.

4 For the meaning of 'proper officer' see PARA 83 note 11 ante.

5 Greater London Authority Act 1999 s 5(1). As to the establishment of the Greater London Authority see PARA 79 ante.

6 For general provisions as to vacancies see PARA 106 ante. As to the filling of vacancies see PARAS 114-115 post.

7 Greater London Authority Act 1999 ss 5(2), 9(1)(d).

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### **108. Vacancy arising by reason of failure to attend meetings.**

If an Assembly member<sup>1</sup> fails, throughout a period of six consecutive months<sup>2</sup> from his last attendance, to attend any meeting of the London Assembly<sup>3</sup>, he ceases to be a member of the Assembly<sup>4</sup> unless the failure to attend is due to some reason approved by the Assembly before the expiry of that period<sup>5</sup>. Where an Assembly member ceases to be a member of the Assembly by reason of failure to attend meetings of the Assembly, the proper officer<sup>6</sup> of the Greater London Authority must forthwith declare the member's office to be vacant<sup>7</sup>, unless it has been declared vacant by the High Court<sup>8</sup>. The date on which such a vacancy is to be regarded as occurring, for the purpose of filling a casual vacancy in the membership of the Assembly, is the date on which the member's office is declared to have been vacated either by the High Court or by the proper officer of the Authority, as the case may be<sup>9</sup>.

1 For the meaning of 'Assembly member' see PARA 82 note 3 ante.

2 Any period during which an Assembly member is suspended or partially suspended under the Local Government Act 2000 s 66, s 73, s 78 or s 79 (see LOCAL GOVERNMENT vol 69 (2009) PARAS 258, 275, 281, 283) is disregarded for the purpose of calculating the period of six consecutive months under the Greater London Authority Act 1999 s 6(1): s 6(5) (added by the Local Government Act 2000 s 107(1), Sch 5 para 31).

3 As to the London Assembly see PARA 82 ante. As to Assembly meetings see PARA 141 et seq post. For these purposes, an Assembly member is deemed to have attended a meeting of the Assembly on any occasion on which he attended as a member at a meeting of any committee or sub-committee of the Assembly (Greater London Authority Act 1999 s 6(3)(a)), or as a representative of the Assembly or the Greater London Authority at a meeting of any body of persons (s 6(3)(b)). As to committees and sub-committees see PARA 170 post. As to the establishment of the Greater London Authority see PARA 79 ante.

4 Ibid s 6(1).

5 Ibid s 6(2). A person does not cease to be a member of the Assembly by reason only of a failure to attend meetings of the Assembly if he is a member of any branch of Her Majesty's naval, military or air forces and is at the time employed during war or any emergency on any naval, military or air force service (s 6(4)(a)), or he is a person whose employment in the service of Her Majesty in connection with war or any emergency is such as, in the opinion of the Secretary of State, to entitle him to relief from disqualification on account of absence (s 6(4)(b)), and the failure to attend is due to that employment (s 6(4)). As to the Secretary of State see PARA 12 note 2 ante. As to disqualification see PARA 86 ante.

6 For the meaning of 'proper officer' see PARA 83 note 11 ante.

7 For general provisions as to vacancies see PARA 106 ante. As to the filling of vacancies see PARAS 114-115 post.

8 Greater London Authority Act 1999 s 7(c).

9 See ibid s 9(1)(h)(ii).

## **UPDATE**

### **108 Vacancy arising by reason of failure to attend meetings**

NOTE 2--1999 Act s 6(5) amended: Local Government and Public Involvement in Health Act 2007 s 201(6).



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### **109. Vacancy arising by reason of Assembly member also being elected Mayor of London.**

If at an ordinary election<sup>1</sup> the person who is returned as the Mayor of London<sup>2</sup> is also returned as an Assembly member<sup>3</sup> for an Assembly constituency<sup>4</sup>, a vacancy<sup>5</sup> arises in the Assembly constituency<sup>6</sup>. If the person who is returned at an election to fill a vacancy in the office of Mayor<sup>7</sup> is an Assembly member, a vacancy arises in his Assembly constituency (if he is a member for an Assembly constituency)<sup>8</sup> or in his office as a London member (if he is a London member)<sup>9</sup>. Such vacancies are regarded as occurring, for the purpose of filling a casual vacancy in the membership of the London Assembly<sup>10</sup>, on the date on which the person is returned as the Mayor or, as the case may be, is returned to fill the vacancy in that office<sup>11</sup>.

If a person who is a candidate in an election to fill a vacancy in the office of Mayor<sup>12</sup> is also a candidate in an election to fill a vacancy in an Assembly constituency and that person is returned in both elections, but the circumstances are such that a vacancy does not arise in the Assembly constituency by virtue of the provisions described above<sup>13</sup>, a vacancy still arises<sup>14</sup>. For the purpose of filling a casual vacancy in the membership of the Assembly, such a vacancy<sup>15</sup> is to be regarded as occurring on the date on which the person is returned to fill the vacancy in the Assembly constituency<sup>16</sup>.

1 As to ordinary elections see PARA 89 ante.

2 As to the Mayor of London see PARA 81 ante. As to the return of the Mayor see PARA 102 ante.

3 For the meaning of 'Assembly member' see PARA 82 note 3 ante.

4 As to the Assembly constituencies see PARAS 93-96 ante. As to the constituency members see PARAS 82, 92 ante. As to the election of the constituency members see PARA 100 ante. As to the return of the constituency members see PARA 103 ante.

5 For general provisions as to vacancies see PARA 106 ante. As to the filling of vacancies see PARAS 114-115 post.

6 Greater London Authority Act 1999 s 4(10).

7 I.e. an election under *ibid* s 16 (see PARA 127 post).

8 *Ibid* s 8(a).

9 *Ibid* s 8(b). As to London members see PARAS 82, 97 ante. As to the election of the London members see PARA 100 ante. As to the return of the London members see PARA 104 ante.

10 As to the London Assembly see PARA 82 ante.

11 Greater London Authority Act 1999 s 9(1)(a).

12 As to elections to fill vacancies in the office of Mayor see PARA 127 post.

13 I.e. by virtue of the Greater London Authority Act 1999 s 8 (see the text and notes 7-9 supra).

14 See *ibid* s 16(10). See also PARA 127 post.

- 15     le a vacancy arising as described in *ibid* s 16(1) (see the text and notes 12-14 *supra*; and PARA 127 *post*).
- 16     *Ibid* s 9(1)(b).

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**110. Vacancy arising by virtue of failure to declare acceptance of office.**

Where a person elected as an Assembly member<sup>1</sup> has not made and delivered a declaration of acceptance of office within the prescribed time limit<sup>2</sup>, the office of the person elected becomes vacant at the expiration of that time<sup>3</sup>. The date on which such a vacancy is regarded as occurring, for the purpose of filling a casual vacancy in the membership of the London Assembly<sup>4</sup>, is the expiration of the period appointed<sup>5</sup> for the delivery of the declaration<sup>6</sup>.

1 For the meaning of 'Assembly member' see PARA 82 note 3 ante. As to the election of the Assembly members see PARA 100 ante. As to the return of the Assembly members see PARAS 103-104 ante.

2 As required by the Greater London Authority Act 1999 s 28 (see PARA 105 ante).

3 See the Greater London Authority Act 1999 s 28(2); and PARA 105 ante. For general provisions as to vacancies see PARA 106 ante. As to the filling of vacancies see PARAS 114-115 post.

4 As to the London Assembly see PARA 82 ante.

5 As to the period appointed see the Greater London Authority Act 1999 s 28(1); and PARA 105 ante.

6 Ibid s 9(1)(c).



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**111. Vacancy arising by virtue of election being declared void.**

For the purpose of filling a casual vacancy<sup>1</sup> in the membership of the London Assembly<sup>2</sup> in the case of an election being declared void on an election petition<sup>3</sup>, the date on which the vacancy is regarded as occurring is the date of the report or certificate of the election court<sup>4</sup>.

1 For general provisions as to vacancies see PARA 106 ante. As to the filling of vacancies see PARAS 114-115 post.

2 As to the London Assembly see PARA 82 ante.

3 As to the questioning of elections by way of petition see ELECTIONS AND REFERENDUMS vol 15(4) (2007 Reissue) PARA 759 et seq.

4 Greater London Authority Act 1999 s 9(1)(g). As to election courts see ELECTIONS AND REFERENDUMS vol 15(4) (2007 Reissue) PARA 767 et seq. For the purposes of the Greater London Authority Act 1999, 'certify' means certify in writing, and related expressions are to be construed accordingly: s 424(1).

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### **112. Vacancy in the London Assembly arising by virtue of statutory disqualification.**

A person may cease to be qualified to be an Assembly member<sup>1</sup>, or may become disqualified for membership, by the operation of the statutory provisions concerned with qualification for membership of the London Assembly<sup>2</sup>. Where an Assembly member ceases to be qualified or becomes disqualified, the proper officer<sup>3</sup> of the Greater London Authority<sup>4</sup> must forthwith declare the member's office to be vacant<sup>5</sup>, unless it has been declared vacant by the High Court<sup>6</sup>. In the case of a person ceasing to be qualified to be an Assembly member or becoming disqualified<sup>7</sup>, the date on which the vacancy is regarded as occurring, for the purpose of filling a casual vacancy in the membership of the Assembly, is the date on which the person's office is declared to have been vacated either by the High Court or by the proper officer of the Authority, as the case may be<sup>8</sup>. For the purpose of filling a casual vacancy in the membership of the Assembly in the case of a disqualification arising by the operation of the statutory provisions concerned with unlawful or irregular accounting<sup>9</sup> or by virtue of a conviction, the date on which the vacancy is regarded as occurring is the expiration of the ordinary period allowed for making an appeal or application with respect to the relevant order or decision or, if an appeal or application is made, the date on which that appeal or application is finally disposed of or abandoned or fails by reason of its non-prosecution<sup>10</sup>.

1 For the meaning of 'Assembly member' see PARA 82 note 3 ante.

2 See the Greater London Authority Act 1999 ss 20-23; and PARAS 85-87 ante. As to qualification and disqualification see PARAS 85-86 ante. As to the London Assembly see PARA 82 ante.

3 For the meaning of 'proper officer' see PARA 83 note 11 ante.

4 As to the establishment of the Greater London Authority see PARA 79 ante.

5 For general provisions as to vacancies see PARA 106 ante. As to the filling of vacancies see PARAS 114-115 post.

6 Greater London Authority Act 1999 s 7(a), (b). The requirement for a declaration does not apply to a disqualification which has arisen under the provisions of the Audit Commission Act 1998 concerned with unlawful or irregular accounting (see the text and note 9 infra), by virtue of a conviction, or by virtue of a breach of the provisions of the Representation of the People Act 1983 Pt II (ss 67-119) (as amended) (see ELECTIONS AND REFERENDUMS): see the Greater London Authority Act 1999 s 7(b).

7 Ie for any reason other than one mentioned in *ibid* s 9(1)(a)-(g) (see the text and notes 9-10 infra; and PARAS 107, 109-111 ante, 113 post).

8 *Ibid* s 9(1)(h)(i).

9 Ie the Audit Commission Act 1998 s 17 (as amended), s 18 (as amended) (see LOCAL GOVERNMENT vol 69 (2009) PARA 772).

10 See the Greater London Authority Act 1999 s 9(1)(f).

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**113. Vacancy arising by virtue of death.**

For the purpose of filling a casual vacancy<sup>1</sup> in the membership of the London Assembly<sup>2</sup> in the case of the death of an Assembly member<sup>3</sup>, the date on which the vacancy is regarded as occurring is the date of death<sup>4</sup>.

1 For general provisions as to vacancies see PARA 106 ante. As to the filling of vacancies see PARAS 114-115 post.

2 As to the London Assembly see PARA 82 ante.

3 For the meaning of 'Assembly member' see PARA 82 note 3 ante.

4 Greater London Authority Act 1999 s 9(1)(e).

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## (C) FILLING OF VACANCIES

### **114. Filling a vacancy in the office of a constituency member.**

Where the office of an Assembly member<sup>1</sup> returned for an Assembly constituency<sup>2</sup> is vacant<sup>3</sup> an election must be held in the Assembly constituency to fill the vacancy<sup>4</sup>. At the election to fill the vacancy each person entitled to vote at the election has a constituency vote<sup>5</sup>, and the Assembly member for the Assembly constituency is returned under the simple majority system<sup>6</sup>. The date of the poll at the election is fixed by the constituency returning officer<sup>7</sup> and must be no later than 35 days<sup>8</sup> after the date of the relevant event<sup>9</sup>. A person may not be a candidate at an election to fill a vacancy if he is the Mayor of London<sup>10</sup>, an Assembly member<sup>11</sup>, or a candidate in another such election<sup>12</sup>. The term of office of the person returned at the election begins immediately upon his being declared to be returned as the constituency member<sup>13</sup>, and ends at the time when it would have ended had he been returned as the constituency member at the previous ordinary election<sup>14</sup>.

1 For the meaning of 'Assembly member' see PARA 82 note 3 ante.

2 As to the Assembly constituencies see PARAS 93-96 ante. As to the return of constituency members see PARA 103 ante.

3 Greater London Authority Act 1999 s 10(1). As to the circumstances in which vacancies in the Assembly may arise see PARAS 107-113 ante. For general provisions as to vacancies see PARA 106 ante.

4 Ibid s 10(2). The requirement to hold an election is subject to the proviso that if the vacancy occurs within the period of six months preceding an ordinary election, it must be left unfilled until that election unless, on the occurrence of the vacancy (or, in the case of a number of simultaneous vacancies, the occurrence of the vacancies) the total number of unfilled vacancies in the membership of the Assembly exceeds one-third of the whole number of Assembly members: s 10(8), (9). As to ordinary elections see PARA 89 ante. As to the London Assembly see PARA 82 ante.

5 Ibid s 10(3)(a). For the meaning of 'constituency vote' see PARA 90 ante.

6 Ibid s 10(3)(b).

7 Ibid s 10(4). 'Constituency returning officer' means the returning officer at an election of an Assembly member for an Assembly constituency: ibid s 29. As to the returning officer see the Representation of the People Act 1983 s 35(2B) (as added); and PARA 91 ante.

8 The Local Government Act 1972 s 243(4) (as amended) (computation of time for electoral purposes: see ELECTIONS AND REFERENDUMS vol 15(3) (2007 Reissue) PARAS 209, 211) applies for the purpose of computing the period of 35 days referred to in the Greater London Authority Act 1999 s 10(5) as it applies for the purposes of the Local Government Act 1972 s 89(1) (as amended) (see LOCAL GOVERNMENT vol 69 (2009) PARA 140); Greater London Authority Act 1999 s 10(7).

9 Ibid s 10(5). For this purpose, 'the relevant event' means: (1) in a case where the High Court or the proper officer of the Greater London Authority has declared the office to be vacant (see PARAS 108, 112 ante), the making of that declaration (s 10(6)(a)); or (2) in any other case, the giving of notice of the vacancy to the proper officer of the Authority by two or more local government electors for the Assembly constituency concerned (s 10(6)(b)). For the meaning of 'proper officer' see PARA 83 note 11 ante. As to the establishment of the Greater London Authority see PARA 79 ante. For the meaning of 'notice' see PARA 83 note 10 ante. For the meanings of 'local government elector' and 'elector' see PARA 85 note 10 ante.

10 Ibid s 10(10)(a). As to the Mayor of London see PARA 81 ante.

11 Ibid s 10(10)(b).

12 Ibid s 10(10)(c).

13 As to constituency members see PARAS 82, 92 ante. As to the return of constituency members see PARA 103 ante.

14 Greater London Authority Act 1999 s 10(11).

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### **115. Filling a vacancy in the office of a London member.**

Where the office of a London member<sup>1</sup> who was returned as an individual candidate<sup>2</sup> is vacant<sup>3</sup>, the vacancy must remain unfilled until the next ordinary election<sup>4</sup>.

Where the office of a London member who was returned from a registered political party's list<sup>5</sup> is vacant, the Greater London returning officer<sup>6</sup> must notify<sup>7</sup> the Chair of the London Assembly<sup>8</sup> of the name of the person who is to fill the vacancy<sup>9</sup>. Where a person's name has been notified<sup>10</sup> his term of office as a London member begins on the day on which the notification is received<sup>11</sup> and ends at the time when it would have ended had he been returned as a London member at the previous ordinary election<sup>12</sup>.

Where a vacancy in the office of a London member who was returned from a registered political party's list is not filled<sup>13</sup>, the vacancy must remain unfilled until the next ordinary election<sup>14</sup>.

1 As to London members see PARAS 82, 97 ante.

2 As to individual candidates to be London members see PARA 99 ante. As to the return of London members see PARA 104 ante.

3 As to the circumstances in which vacancies in the Assembly may arise see PARAS 107-113 ante. For general provisions as to vacancies see PARA 106 ante.

4 Greater London Authority Act 1999 s 11(1), (2). As to ordinary elections see PARA 89 ante.

5 Ie returned under *ibid* s 11 or Sch 2 Pt II (see PARAS 98-99, 104 ante). For the meaning of 'registered political party' see PARA 90 note 7 ante. As to party lists see PARA 98 ante.

6 For the meaning of 'Greater London returning officer' see PARA 98 note 2 ante.

7 'Notify' means notify in writing: Greater London Authority Act 1999 s 424(1).

8 As to the Chair of the Assembly see PARA 84 ante. As to the London Assembly see PARA 82 ante.

9 Greater London Authority Act 1999 s 11(1), (3). The person who is to fill the vacancy must be a person who is included in the party's list (s 11(4)(a)) and who is willing to serve as a London member (s 11(4)(b)). The person who is to fill the vacancy must not be someone: (1) who is not a member of the party (s 11(4)(c), (5)(a)); and (2) in relation to whom the party gives notice to the Greater London returning officer that his name is not to be notified under s 11(3) as the name of the person who is to fill the vacancy (s 11(4)(c), (5)(b)). Where more than one person satisfies the conditions in s 11(4), the Greater London returning officer must notify the name of whichever of them is higher, or highest, in the list: s 11(6).

Section 20 (qualification requirements: see PARA 85 ante) and s 21 (disqualification: see PARA 86 ante) apply in relation to being returned as a London member under s 11 otherwise than at an election as they apply in relation to being elected: ss 20(5), 21(6). References in s 11 to election are accordingly construed as if a London member so returned were elected at an election on the day on which he is treated as returned: ss 20(6), 21(7). In the application of s 20 by virtue of s 20(5), any reference to the day on which a person is nominated as a candidate is taken as a reference to the day on which notification of the person's name is given under s 11(3) by the Greater London returning officer: s 20(7).

Section 28 (procedure for making declarations of acceptance of office: see PARA 105 ante) applies in relation to a London member returned otherwise than at an election as if the member had been elected on the day on which he is to be treated as returned: s 28(9).

10 Ie under *ibid* s 11(3).

11 Ibid s 11(7)(a).

12 Ibid s 11(7)(b). The Greater London Authority Act 1999 applies as if the person had been declared to be returned as a London member on the day on which the notification is so received: s 11(7).

13 le in accordance with ibid s 11(3)-(7) (see the text and notes 5-12 supra).

14 Ibid s 11(2).

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## ***B. VACANCY IN OFFICE OF MAYOR OF LONDON***

### **(A) IN GENERAL**

#### **116. General provisions as to vacancies.**

If a casual vacancy arises in the office of Mayor of London<sup>1</sup>, the proper officer<sup>2</sup> of the Greater London Authority<sup>3</sup> must give notice<sup>4</sup> of the vacancy to:

- 186 (1) the Greater London returning officer<sup>5</sup>; and
- 187 (2) the Deputy Mayor, if there is a holder of such office<sup>6</sup>, or, in any other case, the Chair of the London Assembly<sup>7</sup>,

and must give public notice of the vacancy in every Assembly constituency<sup>8</sup>. Any such notice<sup>9</sup> must be given as soon as practicable after the date on which the vacancy is to be regarded as occurring<sup>10</sup>.

The validity of anything done by the Authority is not affected by any vacancy in the office of Mayor<sup>11</sup>.

1 As to the Mayor of London see PARA 81 ante. As to the circumstances in which vacancies in the office of Mayor may arise see PARAS 117-122 post. As to the filling of vacancies see PARA 127 post. As to the exercise of mayoral functions by the acting Mayor during periods of vacancy see PARAS 123-126 post.

2 For the meaning of 'proper officer' see PARA 83 note 11 ante.

3 As to the establishment of the Greater London Authority see PARA 79 ante.

4 For the meaning of 'notice' see PARA 83 note 10 ante.

5 Greater London Authority Act 1999 s 15(2)(a). For the meaning of 'Greater London returning officer' see PARA 98 note 2 ante.

6 Ibid s 37, Sch 4 para 2(1)(a). As to the Deputy Mayor see PARA 83 ante. As to the Deputy Mayor as acting Mayor see PARA 123 post.

7 Ibid Sch 4 para 2(1)(b). Where notice is given to the Chair of the Assembly under Sch 4 para 2(1)(b), the person who is the Chair becomes the acting Mayor: see Sch 4 para 4(4)(a); and PARA 123 post. As to the Chair of the Assembly see PARA 84 ante. As to the London Assembly see PARA 82 ante.

8 Ibid s 15(2)(b). As to the Assembly constituencies see PARAS 93-96 ante. Any public notice under s 15(2)(b) must be given by posting the notice in some conspicuous place or places in each Assembly constituency and in such other manner, if any, as the Greater London returning officer considers desirable for giving publicity to the notice: s 15(3).

9 Ie any notice under ibid s 15(2) or Sch 4 para 2(1).

10 Ibid s 15(4), Sch 4 para 2(2). As to the date on which the vacancy is to be regarded as occurring see s 15(1); and PARAS 117-122 post.

11 Ibid s 2(11).





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## (B) CIRCUMSTANCES IN WHICH VACANCIES MAY ARISE

### **117. Vacancy arising on resignation.**

The Mayor of London<sup>1</sup> may at any time resign his office by giving notice<sup>2</sup> to the proper officer<sup>3</sup> of the Greater London Authority<sup>4</sup>. Any such resignation takes effect, and for the purpose of filling a casual vacancy<sup>5</sup> in the office of Mayor arising by virtue of a resignation is regarded as occurring, on the officer's receipt of the notice<sup>6</sup>.

1 As to the Mayor of London see PARA 81 ante.

2 For the meaning of 'notice' see PARA 83 note 10 ante.

3 For the meaning of 'proper officer' see PARA 83 note 11 ante.

4 Greater London Authority Act 1999 s 12(1). As to the establishment of the Greater London Authority see PARA 79 ante.

5 For general provisions as to vacancies see PARA 116 ante. As to the filling of vacancies see PARA 127 post. As to the exercise of mayoral functions by the acting Mayor during periods of vacancy see PARAS 123-126 post.

6 Greater London Authority Act 1999 ss 9(1)(d), 12(2) (s 9(1)(d) applied by s 15(1)).

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### **118. Vacancy arising by reason of failure to attend meetings.**

If the Mayor of London<sup>1</sup> fails on six consecutive occasions to attend meetings of the London Assembly<sup>2</sup>, he ceases to be the Mayor<sup>3</sup>. Where the Mayor ceases to be the Mayor by reason of failure to attend meetings of the Assembly, the proper officer<sup>4</sup> of the Greater London Authority<sup>5</sup> must forthwith declare his office to be vacant<sup>6</sup>, unless it has been declared vacant by the High Court<sup>7</sup>. The date on which such a vacancy is to be regarded as occurring, for the purpose of filling a casual vacancy in the office of Mayor, is the date on which the Mayor's office is declared to have been vacated either by the High Court or by the proper officer of the Authority, as the case may be<sup>8</sup>.

1 As to the Mayor of London see PARA 81 ante.

2 The meetings held pursuant to the Greater London Authority Act 1999 s 52(3): see PARA 141 et seq post. As to the London Assembly see PARA 82 ante. Any meeting of the Assembly which the Mayor is unable to attend because he is suspended or partially suspended under the Local Government Act 2000 s 66, s 73, s 78 or s 79 (see LOCAL GOVERNMENT vol 69 (2009) PARAS 258, 275, 281, 283) is disregarded for the purposes of the Greater London Authority Act 1999 s 13(1) (as renumbered): s 13(2) (added by the Local Government Act 2000 s 107(1), Sch 5 para 32).

3 Greater London Authority Act 1999 s 13(1) (renumbered by the Local Government Act 2000 Sch 5 para 32).

4 For the meaning of 'proper officer' see PARA 83 note 11 ante.

5 As to the establishment of the Greater London Authority see PARA 79 ante.

6 For general provisions as to vacancies see PARA 116 ante. As to the filling of vacancies see PARA 127 post. As to the exercise of mayoral functions by the acting Mayor during periods of vacancy see PARAS 123-126 post.

7 Greater London Authority Act 1999 s 14(c).

8 Ibid s 9(1)(h)(ii) (modified by s 15(1)).

### **UPDATE**

### **118 Vacancy arising by reason of failure to attend meetings**

NOTE 2--1999 Act s 13(2) amended: Local Government and Public Involvement in Health Act 2007 s 201(6).

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**119. Vacancy arising by virtue of failure to declare acceptance of office.**

Where a person elected as Mayor of London<sup>1</sup> has not made and delivered a declaration of acceptance of office within the prescribed time limit<sup>2</sup>, the office of the person elected becomes vacant<sup>3</sup> at the expiration of that time<sup>4</sup>. The date on which such a vacancy is to be regarded as occurring, for the purpose of filling a casual vacancy in the office of Mayor, is the expiration of the period appointed<sup>5</sup> for the delivery of the declaration<sup>6</sup>.

1 As to the Mayor of London see PARA 81 ante.

2 Ie as required by the Greater London Authority Act 1999 s 28 (see PARA 105 ante).

3 For general provisions as to vacancies see PARA 116 ante. As to the filling of vacancies see PARA 127 post. As to the exercise of mayoral functions by the acting Mayor during periods of vacancy see PARAS 123-126 post.

4 See the Greater London Authority Act 1999 s 28(2); and PARA 105 ante.

5 As to the period appointed see *ibid* s 28(1); and PARA 105 ante.

6 *Ibid* s 9(1)(c) (applied by s 15(1)).

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**120. Vacancy arising by virtue of election being declared void.**

For the purpose of filling a casual vacancy<sup>1</sup> in the office of Mayor of London<sup>2</sup> in the case of an election being declared void on an election petition<sup>3</sup>, the date on which the vacancy is regarded as occurring is the date of the report or certificate of the election court<sup>4</sup>.

1 For general provisions as to vacancies see PARA 116 ante. As to the filling of vacancies see PARA 127 post. As to the exercise of mayoral functions by the acting Mayor during periods of vacancy see PARAS 123-126 post.

2 As to the Mayor of London see PARA 81 ante.

3 As to the questioning of elections by way of petition see ELECTIONS AND REFERENDUMS vol 15(4) (2007 Reissue) PARA 759 et seq.

4 Greater London Authority Act 1999 s 9(1)(g) (applied by s 15(1)). As to election courts see ELECTIONS AND REFERENDUMS vol 15(4) (2007 Reissue) PARA 767 et seq. As to the meaning of 'certificate' see PARA 111 note 4 ante.

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### **121. Vacancy arising by virtue of statutory disqualification.**

A person may cease to be qualified to be or to be elected the Mayor of London<sup>1</sup>, or may become disqualified from being elected or being the Mayor, by the operation of the statutory provisions concerned with qualification for office<sup>2</sup>. Where the Mayor ceases to be qualified to be the Mayor, or becomes disqualified, the proper officer<sup>3</sup> of the Greater London Authority<sup>4</sup> must forthwith declare his office to be vacant<sup>5</sup>, unless it has been declared vacant by the High Court<sup>6</sup>. In the case of a person ceasing to be qualified to be the Mayor or becoming disqualified<sup>7</sup>, the date on which the vacancy is regarded as occurring, for the purpose of filling a casual vacancy in the office of Mayor, is the date on which the office is declared to have been vacated either by the High Court or by the proper officer of the Authority, as the case may be<sup>8</sup>. For the purpose of filling a casual vacancy in the office of Mayor in the case of a disqualification arising by the operation of the statutory provisions concerned with unlawful or irregular accounting<sup>9</sup> or by virtue of a conviction, the date on which the vacancy is regarded as occurring is the expiration of the ordinary period allowed for making an appeal or application with respect to the relevant order or decision or, if an appeal or application is made, the date on which that appeal or application is finally disposed of or abandoned or fails by reason of its non-prosecution<sup>10</sup>.

1 As to the Mayor of London see PARA 81 ante.

2 See the Greater London Authority Act 1999 ss 20-23; and PARAS 85-87 ante. As to qualification and disqualification see PARAS 85-86 ante.

3 For the meaning of 'proper officer' see PARA 83 note 11 ante.

4 As to the establishment of the Greater London Authority see PARA 79 ante.

5 For general provisions as to vacancies see PARA 116 ante. As to the filling of vacancies see PARA 127 post. As to the exercise of mayoral functions by the acting Mayor during periods of vacancy see PARAS 123-126 post.

6 Greater London Authority Act 1999 s 14(a), (b). The requirement for a declaration does not apply to a disqualification which has arisen under the provisions of the Audit Commission Act 1998 concerned with unlawful or irregular accounting (see note 9 infra), by virtue of a conviction, or by virtue of a breach of the provisions of the Representation of the People Act 1983 Pt II (ss 67-119) (as amended) (see ELECTIONS AND REFERENDUMS); see the Greater London Authority Act 1999 s 14(b).

7 Ie for any reason other than one mentioned in the Greater London Authority Act 1999 s 9(1)(c)-(g) (as applied by s 15(1)) (see the text and notes 9-10 infra; and PARAS 117, 119-120 ante, 122 post).

8 Ibid s 9(1)(h)(i) (modified by s 15(1)).

9 Ie the Audit Commission Act 1998 s 17 (as amended), s 18 (as amended) (see LOCAL GOVERNMENT vol 69 (2009) PARA 772).

10 Greater London Authority Act 1999 s 9(1)(f) (applied by s 15(1)).

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**122. Vacancy arising by virtue of death.**

For the purpose of filling a casual vacancy<sup>1</sup> in the office of Mayor of London<sup>2</sup> in the case of the death of the Mayor, the date on which the vacancy is regarded as occurring is the date of death<sup>3</sup>.

1 For general provisions as to vacancies see PARA 116 ante. As to the filling of vacancies see PARA 127 post. As to the exercise of mayoral functions by the acting Mayor during periods of vacancy see PARAS 123-126 post.

2 As to the Mayor of London see PARA 81 ante.

3 Greater London Authority Act 1999 s 9(1)(e) (applied by s 15(1)).

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## (C) THE ACTING MAYOR

### **123. Provision for acting Mayor during vacancy in the office of Mayor of London.**

During any vacancy in the office of Mayor of London<sup>1</sup> there must be an acting Mayor<sup>2</sup>. The office of acting Mayor may be filled by either the Deputy Mayor (if there is one)<sup>3</sup> or by the Chair of the London Assembly<sup>4</sup>.

If there is a person who holds the office of Deputy Mayor on the date on which a vacancy in the office of Mayor occurs<sup>5</sup>, that person is the acting Mayor<sup>6</sup> unless, within the permitted period<sup>7</sup>:

- 188 (1) he gives notice<sup>8</sup> to the proper officer<sup>9</sup> of the Greater London Authority<sup>10</sup> that he does not wish to be the acting Mayor<sup>11</sup>; or
- 189 (2) he does not give such a notice and does not deliver a declaration of acceptance of the office of acting Mayor<sup>12</sup>.

The person who is the Chair of the Assembly becomes the acting Mayor<sup>13</sup> if:

- 190 (a) there is no holder of the office of Deputy Mayor to whom the proper officer of the Authority may give notification<sup>14</sup> of the occurrence of a casual vacancy in the office of Mayor<sup>15</sup>; or
- 191 (b) the proper officer gives notice<sup>16</sup> to the Chair that the person who is the Deputy Mayor has not become the acting Mayor by virtue of heads (1) and (2) above<sup>17</sup>.

1 As to the Mayor of London see PARA 81 ante. As to the circumstances in which vacancies in the office of Mayor may arise see PARAS 117-122 ante. As to the filling of vacancies see PARA 127 post.

2 Greater London Authority Act 1999 s 37, Sch 4 para 3. As to the filling of vacancies in the office of acting Mayor see PARA 125 post.

3 See *ibid* Sch 4 para 4(1), (2); and the text and notes 5-12 *infra*. As to the Deputy Mayor see PARA 83 ante.

4 See *ibid* Sch 4 para 4(3)-(5); and the text and notes 13-17 *infra*. As to the Chair of the London Assembly see PARA 84 ante. As to the London Assembly see PARA 82 ante.

5 As to the date on which a vacancy is to be regarded as occurring see PARAS 117-122 ante.

6 If a person becomes the acting Mayor by virtue of being the Deputy Mayor he ceases to be the Deputy Mayor (Greater London Authority Act 1999 Sch 4 para 4(2)(a)) and he cannot be the Deputy Mayor, the Chair of the Assembly or the Deputy Chair of the Assembly at any time while he is the acting Mayor (Sch 4 para 4(2)(b)). As to the Deputy Chair of the Assembly see PARA 84 ante.

7 For these purposes, 'the permitted period' means the period of seven days following the day on which notice under *ibid* Sch 4 para 2(1)(a) (see PARA 117 ante) is given to the Deputy Mayor: Sch 4 para 4(6).

8 For the meaning of 'notice' see PARA 83 note 10 ante.

9 For the meaning of 'proper officer' see PARA 83 note 11 ante.

10 As to the establishment of the Greater London Authority see PARA 79 ante.



11 Greater London Authority Act 1999 Sch 4 para 4(1)(a). If by virtue of Sch 4 para 4(1) the person who is the Deputy Mayor does not become the acting Mayor, the proper officer of the Authority must give notice of that fact to the Chair of the Assembly as soon as practicable after the receipt of any notice under Sch 4 para 4(1)(a): Sch 4 para 4(3)(a).

12 Ibid Sch 4 para 4(1)(b). As to declarations of acceptance see Sch 4 para 8(1); and PARA 124 post. If by virtue of Sch 4 para 4(1) the person who is the Deputy Mayor does not become the acting Mayor, the proper officer of the Authority must give notice of that fact to the Chair of the Assembly as soon as practicable after the last day of the permitted period: Sch 4 para 4(3)(b).

13 If a person becomes acting Mayor by virtue of being the Chair of the Assembly he ceases to be the Chair of the Assembly (Sch 4 para 4(5)(a)) and he may not be the Deputy Mayor, the Chair of the Assembly or the Deputy Chair of the Assembly at any time while he is the acting Mayor (Sch 4 para 4(5)(b)).

14 I.e. notification under ibid Sch 4 para 2(1): see PARA 116 ante.

15 Ibid Sch 4 para 4(4)(a). In these circumstances notification of the vacancy must be given to the Chair of the Assembly: see Sch 4 para 2(1)(b); and PARA 116 ante.

16 I.e. notice under ibid Sch 4 para 4(3): see notes 11-12 supra.

17 Ibid Sch 4 para 4(4)(b).

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#### **124. Declaration of acceptance of office of acting Mayor.**

A person may not, by virtue of being Deputy Mayor of London<sup>1</sup>, become the acting Mayor<sup>2</sup>, or exercise any mayoral functions<sup>3</sup>, unless and until he has made, and delivered to the proper officer<sup>4</sup> of the Greater London Authority<sup>5</sup> within the permitted period<sup>6</sup>, a declaration of acceptance in a form prescribed in an order made by the Secretary of State<sup>7</sup>.

A person who becomes acting Mayor by virtue of being the Chair of the London Assembly<sup>8</sup> may not act in the office of acting Mayor unless or until he has, in respect of his office as an Assembly member<sup>9</sup>, made a declaration of acceptance of the office in a form prescribed in an order made by the Secretary of State<sup>10</sup> and, within two months from the day of his election<sup>11</sup>, the declaration has been delivered to the proper officer of the Greater London Authority<sup>12</sup>.

1 As to the Deputy Mayor of London see PARA 83 ante.

2 As to the acting Mayor see PARA 123 ante. As to the circumstances in which there may arise a requirement for an acting Mayor see PARAS 117-121 ante; and as to the notification of a requirement see PARA 116 ante. As to the filling of vacancies in the office of acting Mayor see PARA 125 post. As to the Mayor of London see PARA 81 ante.

3 The any functions exercisable by virtue of the Greater London Authority Act 1999 s 37, Sch 4 para 5: see PARA 126 post. As to the functions of the Greater London Authority see PARA 164 et seq post.

4 For the meaning of 'proper officer' see PARA 83 note 11 ante.

5 As to the establishment of the Greater London Authority see PARA 79 ante.

6 For these purposes, 'the permitted period' means the period of seven days following the day on which notice under the Greater London Authority Act 1999 Sch 4 para 2(1)(a) (see PARA 117 ante) is given to the Deputy Mayor: Sch 4 paras 4(6), 8(2).

7 Ibid Sch 4 para 8(1). For the prescribed form see the Greater London Authority (Elections and Acceptance of Office) Order 2000, SI 2000/308, art 4(c), Schedule. As to the Secretary of State see PARA 12 note 2 ante. As to the making of orders generally see PARA 13 ante.

The declaration must be made before: (1) two members of the London Assembly; (2) the proper officer of the Authority; (3) a justice of the peace or magistrate in the United Kingdom, the Channel Islands or the Isle of Man; or (4) a commissioner appointed to administer oaths in the Supreme Court: Greater London Authority Act 1999 s 28(3), Sch 4 para 8(3). For the meaning of 'United Kingdom' see PARA 26 note 2 ante. Any person before whom a declaration is authorised to be made under s 28(3) may take the declaration: s 28(4), Sch 4 para 8(3).

Where the acting Mayor makes the declaration required by the Greater London Authority Act 1999 Sch 4 para 8(1), he must resign his membership of the Metropolitan Police Authority and the Chair of the London Assembly must fill the vacancy so arising by appointing another member of the Assembly to be a member of the Metropolitan Police Authority in place of the acting Mayor: Sch 4 para 9. As to the Metropolitan Police Authority see PARA 216 post; and POLICE vol 36(1) (2007 Reissue) PARAS 147-155. As to the London Assembly see PARA 82 ante. As to the Chair of the London Assembly see PARA 84 ante.

8 See PARA 123 ante.

9 For the meaning of 'Assembly member' see PARA 82 note 3 ante.

10 Greater London Authority Act 1999 s 28(1)(a), Sch 4 para 10. For the prescribed form see the Greater London Authority (Elections and Acceptance of Office) Order 2000, SI 2000/308, art 4(b), Schedule.

11 As to the holding of elections see PARA 89 ante.

12 Greater London Authority Act 1999 s 28(1)(b), Sch 4 para 10.

## **UPDATE**

### **124 Declaration of acceptance of office of acting Mayor**

NOTE 7--As from 1 October 2009 (see SI 2009/1604), Greater London Authority Act 1999 s 28(3) is amended so as to refer to Senior Courts instead of the Supreme Court: Constitutional Reform Act 2005 Sch 11 para 4(1), (3).

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## **125. Vacancies in the office of acting Mayor.**

A casual vacancy occurs in the office of acting Mayor of London<sup>1</sup> if a casual vacancy occurs in the acting Mayor's office as an Assembly member<sup>2</sup> or would have occurred in the office of Mayor of London<sup>3</sup> had the acting Mayor been the Mayor<sup>4</sup>. If at any time during a vacancy in the office of Mayor a casual vacancy occurs in the office of acting Mayor, the head of the Greater London Authority's paid service<sup>5</sup> must give notice<sup>6</sup> of the vacancy to the Chair of the London Assembly<sup>7</sup> and to the Deputy Mayor<sup>8</sup> (if there is a holder of that office)<sup>9</sup>, and the statutory provisions concerned with vacancies in the office of Mayor<sup>10</sup> have effect as if a vacancy in the office of Mayor had occurred on the date<sup>11</sup> on which the vacancy in the office of acting Mayor occurs<sup>12</sup>.

1 As to the office of acting Mayor of London see PARAS 123-124 ante.

2 Greater London Authority Act 1999 s 37, Sch 4 para 12(2)(a). For the meaning of 'Assembly member' see PARA 82 note 3 ante. As to the London Assembly see PARA 82 ante. As to the circumstances in which a casual vacancy may arise in the office of an Assembly member see PARAS 107-113 ante.

3 As to the Mayor of London see PARA 81 ante. As to the circumstances in which vacancies in the office of Mayor may arise see PARAS 117-122 ante.

4 Greater London Authority Act 1999 Sch 4 para 12(2)(b).

5 I.e. the person who is, by virtue of his appointment under *ibid* s 407 (see PARA 16 ante), for the time being head of the Greater London Authority's paid service. As to the head of the paid service see PARA 136 post. As to the establishment of the Greater London Authority see PARA 79 ante.

6 For the meaning of 'notice' see PARA 83 note 10 ante. Any notice under *ibid* Sch 4 para 12(1) must be given as soon as practicable after the date on which, by virtue of Sch 4 para 12(2) (see note 11 *infra*), the vacancy is, in accordance with s 9 or s 15, to be regarded as occurring: Sch 4 para 12(3). As to the date on which a casual vacancy in the office of an Assembly member is regarded as occurring see PARAS 107-113 ante. As to the date on which a casual vacancy in the office of Mayor is regarded as occurring see PARAS 117-122 ante.

7 *Ibid* Sch 4 para 12(1)(a). As to the Chair of the London Assembly see PARA 84 ante.

8 As to the Deputy Mayor of London see PARA 83 ante.

9 Greater London Authority Act 1999 Sch 4 para 12(1)(b).

10 I.e. *ibid* Sch 4 paras 3-11: see PARAS 123-124 ante, 126 post.

11 The date on which a casual vacancy occurs in the office of acting Mayor is, as the case may be, the date on which a casual vacancy occurs in the acting Mayor's office as an Assembly member (see PARAS 107-113 ante) or that on which a casual vacancy would have occurred in the office of Mayor had the acting Mayor been the Mayor (see PARAS 117-122 ante): *ibid* Sch 4 para 12(2).

12 *Ibid* Sch 4 para 12(1) (amended by the Greater London Authority (Miscellaneous Amendments) Order 2000, SI 2000/1435, art 2, Schedule paras 1, 10).

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## **126. Exercise of functions by acting Mayor.**

If and so long as there is an acting Mayor<sup>1</sup> he is for most purposes treated for the period of the vacancy<sup>2</sup> as if he were the Mayor of London<sup>3</sup>. Any functions exercisable by the Mayor are with certain exceptions exercisable instead by the acting Mayor<sup>4</sup> and any functions exercisable by the Mayor and the London Assembly<sup>5</sup> acting jointly are exercisable instead by the acting Mayor and the Assembly acting jointly<sup>6</sup>.

1 As to the acting Mayor of London see PARAS 123-125 ante.

2 As to the vacancy in the office of Mayor of London. As to the Mayor of London see PARA 81 ante. As to the circumstances in which vacancies in the office of Mayor may arise see PARAS 117-122 ante.

3 Greater London Authority Act 1999 s 37, Sch 4 para 5(1).

4 Ibid Sch 4 para 5(1)(a). As to the functions of the Greater London Authority see PARA 164 et seq post. Sch 4 para 5(1)(a) does not apply in relation to: (1) any function exercisable under Sch 6 or Sch 7 (budgetary requirements: see PARAS 234, 236 post) (Sch 4 para 6(1)(a)); (2) any functions in relation to the preparation, alteration or replacement of any strategies under the Greater London Authority Act 1999 (see PARA 177 et seq post) (Sch 4 para 6(1)(b)); or (3) any function of making: (a) any appointment of a member of any of the functional bodies (Sch 4 para 6(1)(c), (2)(a)); (b) any appointment of a member of any other body corporate under or by virtue of the Greater London Authority Act 1999 (Sch 4 para 6(1)(c), (2)(b)); or (c) any appointment of political advisors or staff under s 67(1) (see PARAS 133-134 post) (Sch 4 para 6(1)(c), (2)(c)). As to the functional bodies see PARAS 213-218 post.

5 As to the London Assembly see PARA 82 ante.

6 Greater London Authority Act 1999 Sch 4 para 5(1)(b). This is subject to the provisions of Sch 4 paras 6-12 (Sch 4 para 12 as amended) (see note 4 supra; and PARAS 124-125 ante): Sch 4 para 5(2).

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## (D) FILLING OF VACANCY

### **127. Filling a vacancy in the office of Mayor of London.**

Where a vacancy occurs in the office of Mayor of London<sup>1</sup> an election must be held to fill the vacancy<sup>2</sup>. At the election to fill the vacancy each person entitled to vote as an elector<sup>3</sup> at the election has a mayoral vote<sup>4</sup>. The date of the poll at the election is fixed by the Greater London returning officer<sup>5</sup> and must be no later than 35 days<sup>6</sup> after the date of the relevant event<sup>7</sup>. The term of office of the person returned as the Mayor<sup>8</sup> at the election begins immediately upon his being declared to be returned as the Mayor<sup>9</sup>, and ends at the time when it would have ended had he been returned as the Mayor at the previous ordinary election<sup>10</sup>.

1 Greater London Authority Act 1999 s 16(1). As to the Mayor of London see PARA 81 ante. As to the circumstances in which vacancies in the office of Mayor may arise see PARAS 117-122 ante. For general provisions as to vacancies see PARA 116 ante.

2 Ibid s 16(2). The requirement to hold an election is subject to the proviso that if the vacancy occurs within the period of six months preceding an ordinary election, it must be left unfilled until that election: s 16(9). As to ordinary elections see PARA 89 ante.

A vacancy may arise in an Assembly constituency if a person who is a candidate in an election to fill a vacancy in the office of Mayor is also a candidate in an election to fill a vacancy in an Assembly constituency and that person is returned in both elections: see s 16(10); and PARA 109 ante. As to the Assembly constituencies see PARAS 93-96 ante.

3 For the meaning of 'elector' see PARA 85 note 10 ante.

4 Greater London Authority Act 1999 s 16(3). For the meaning of 'mayoral vote' see PARA 90 ante. The provisions of s 4(2), (3), Sch 2 Pt I paras 1-4 (see PARA 102 ante) apply in relation to the election as they apply in relation to the election of the Mayor at an ordinary election: s 16(4).

5 Ibid s 16(5). For the meaning of 'Greater London returning officer' see PARA 98 note 2 ante.

6 The Local Government Act 1972 s 243(4) (as amended) (computation of time for electoral purposes: see ELECTIONS AND REFERENDUMS vol 15(3) (2007 Reissue) PARAS 209, 211) applies for the purpose of computing the period of 35 days referred to in the Greater London Authority Act 1999 s 16(6) as it applies for the purposes of the Local Government Act 1972 s 89(1) (as amended) (see LOCAL GOVERNMENT vol 69 (2009) PARA 140); Greater London Authority Act 1999 s 16(8).

7 Ibid s 16(6). For this purpose, 'the relevant event' means: (1) in a case where the High Court or the proper officer of the Greater London Authority has declared the office to be vacant (see PARAS 118, 121 ante), the making of that declaration (s 16(7)(a)); or (2) in any other case, the giving of notice of the vacancy to the proper officer of the Authority by two or more local government electors for Greater London (s 16(7)(b)). For the meaning of 'proper officer' see PARA 83 note 11 ante. As to the establishment of the Greater London Authority see PARA 79 ante. For the meaning of 'notice' see PARA 83 note 10 ante. For the meanings of 'local government elector' and 'elector' see PARA 85 note 10 ante.

8 As to the return of the Mayor see PARA 102 ante.

9 Greater London Authority Act 1999 s 16(11)(a).

10 Ibid s 16(11)(b).

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### ***C. TEMPORARY INABILITY OF MAYOR OF LONDON***

#### **128. Notification of Mayor's temporary inability to act.**

If the head of the Greater London Authority's paid service<sup>1</sup> becomes aware that the Mayor of London<sup>2</sup> is temporarily unable to act<sup>3</sup>, he must as soon as reasonably practicable give notice<sup>4</sup> of that fact to the Chair of the London Assembly<sup>5</sup> and to the Deputy Mayor<sup>6</sup>, if there is a holder of that office<sup>7</sup>.

1 The person who is, by virtue of his appointment under the Greater London Authority Act 1999 s 407 (see PARA 16 ante), for the time being head of the Greater London Authority's paid service. As to the head of the paid service see PARA 136 post. As to the establishment of the Greater London Authority see PARA 79 ante.

2 As to the Mayor of London see PARA 81 ante.

3 A reference to a period when the Mayor is temporarily unable to act is a reference to a period when there is no vacancy in the office of Mayor but the Mayor is unable to act in his office by reason of illness, imprisonment or absence abroad or for any other reason, and references to the Mayor being temporarily unable to act are construed accordingly: Greater London Authority Act 1999 s 37, Sch 4 para 1. As to the circumstances in which vacancies in the office of Mayor may arise see PARAS 117-122 ante. As to the filling of vacancies see PARA 127 ante.

4 For the meaning of 'notice' see PARA 83 note 10 ante. For the purposes of *ibid* Sch 4 paras 14-18 (see PARAS 129-130 post), any period when the Mayor is temporarily unable to act is taken to begin with the giving of the notice required by Sch 4 para 13(1): Sch 4 para 13(2).

5 *Ibid* Sch 4 para 13(1)(a). As to the Chair of the London Assembly see PARA 84 ante. As to the London Assembly see PARA 82 ante.

6 As to the Deputy Mayor see PARA 83 ante.

7 Greater London Authority Act 1999 Sch 4 para 13(1)(b).

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### **129. Exercise of Mayor's functions by Deputy Mayor.**

During any period in which the Mayor of London<sup>1</sup> is temporarily unable to act<sup>2</sup>, the Deputy Mayor<sup>3</sup> is for most purposes treated as if he were the Mayor<sup>4</sup>. Any functions exercisable by the Mayor<sup>5</sup> are with certain exceptions exercisable instead by the Deputy Mayor<sup>6</sup> and any functions exercisable by the Mayor and the London Assembly<sup>7</sup> acting jointly are exercisable instead by the Deputy Mayor and the Assembly acting jointly<sup>8</sup>.

If the Mayor has been temporarily unable to act for a period of three consecutive months, the Deputy Mayor must resign his membership of the Metropolitan Police Authority<sup>9</sup> and the Chair of the Assembly must fill the vacancy so arising by appointing another member of the Assembly to be a member of the Metropolitan Police Authority in place of the Deputy Mayor<sup>10</sup>.

1 As to the Mayor of London see PARA 81 ante.

2 As to the construction of references to the temporary inability of the Mayor of London see PARA 128 note 3 ante.

3 As to the Deputy Mayor see PARA 83 ante.

4 Greater London Authority Act 1999 s 37, Sch 4 para 14(1).

5 As to the functions of the Greater London Authority see PARA 164 et seq post.

6 Greater London Authority Act 1999 Sch 4 para 14(1)(a). Schedule 4 para 14(1)(a) does not apply in relation to: (1) any function exercisable under Sch 6 or Sch 7 (budgetary requirements: see PARAS 234, 236 post) (Sch 4 para 15(1)(a)); (2) any functions in relation to the preparation, alteration or replacement of strategies under the Greater London Authority Act 1999 (see PARA 177 et seq post) (Sch 4 para 15(1)(b)); or (3) any function of making: (a) any appointment of a member of any of the functional bodies (Sch 4 para 15(1)(c), (2)(a)); (b) any appointment of a member of any other body corporate under or by virtue of the Greater London Authority Act 1999 (Sch 4 para 15(1)(c), (2)(b)); or (c) any appointment of political advisors or staff under s 67(1) (see PARAS 133-134 post) (Sch 4 para 15(1)(c), (2)(c)). As to the functional bodies see PARAS 213-218 post.

The functions of the Mayor during a period of temporary inability to act may be exercised by the Chair of the London Assembly in the absence of the Deputy Mayor or if that officer is unwilling to act: see PARA 130 post. As to the Chair of the London Assembly see PARA 84 ante.

7 As to the London Assembly see PARA 82 ante.

8 Greater London Authority Act 1999 Sch 4 para 14(1)(b). This is subject to the provisions of Sch 4 paras 15-18 (see note 6 supra; and PARA 130 post): Sch 4 para 14(2).

9 Ibid Sch 4 para 17(a). As to the Metropolitan Police Authority see PARA 216 post; and POLICE vol 36(1) (2007 Reissue) PARAS 147-155. Where the Chair of the Assembly exercises the functions of the Mayor during the Mayor's temporary inability to act (see PARA 130 post), Sch 4 para 17 is disregarded, but without prejudice to any action taken thereunder or required to be taken under Sch 4 para 17(b) (see the text and note 10 infra): Sch 4 para 18(2)(b).

10 Ibid Sch 4 para 17(b). See note 9 supra.

## **UPDATE**

### **129 Exercise of Mayor's functions by Deputy Mayor**



NOTE 6--1999 Act Sch 4 para 15(a) repealed: Greater London Authority Act 2007 s 16(2).

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**130. Exercise of Mayor's functions where Deputy Mayor is absent or is unwilling to act.**

If, during any period<sup>1</sup> in which the Mayor of London<sup>2</sup> is temporarily unable to act<sup>3</sup>:

- 192 (1) there is no Deputy Mayor at the beginning of that period<sup>4</sup>;
- 193 (2) the person who, at the beginning of that period, is the Deputy Mayor gives notice<sup>5</sup> to the proper officer<sup>6</sup> of the Greater London Authority<sup>7</sup> that he does not wish to exercise<sup>8</sup> the functions of the Mayor<sup>9</sup>; or
- 194 (3) a casual vacancy occurs in the office of Deputy Mayor<sup>10</sup>,

the Chair of the London Assembly<sup>11</sup> is for most purposes treated as if he were the Mayor<sup>12</sup>. Any functions exercisable by the Mayor are with certain exceptions exercisable instead by the Chair<sup>13</sup> and any functions exercisable by the Mayor and the Assembly acting jointly are exercisable instead by the Chair and the Assembly acting jointly<sup>14</sup>.

If and so long as mayoral functions are exercisable by the Chair of the Assembly, he may not exercise any of the other functions of Chair<sup>15</sup>, and if and so long as the Chair is so precluded<sup>16</sup> from exercising any of his functions, those functions are exercisable instead by the Deputy Chair of the Assembly<sup>17</sup>.

1 The reference in the text to 'any period' may alternatively, where appropriate, be read as a reference to the remainder of any period.

2 As to the Mayor of London see PARA 81 ante.

3 As to the construction of references to the temporary inability of the Mayor of London see PARA 128 note 3 ante.

4 Greater London Authority Act 1999 s 37, Sch 4 para 18(1)(a). As to the Deputy Mayor see PARA 83 ante.

5 For the meaning of 'notice' see PARA 83 note 10 ante. Notice is required to be given within the period of seven days following the day on which notice of the Mayor's temporary inability to act is given to the Deputy Mayor under *ibid* Sch 4 para 13(1)(b) (see PARA 128 ante): Sch 4 para 18(1).

6 For the meaning of 'proper officer' see PARA 83 note 11 ante.

7 As to the establishment of the Greater London Authority see PARA 79 ante.

8 *Ie* pursuant to the Greater London Authority Act 1999 Sch 4 para 14: see PARA 129 ante.

9 *Ibid* Sch 4 para 18(1)(b). As to the functions of the Greater London Authority see PARA 164 *et seq* post.

10 *Ibid* Sch 4 para 18(1)(c). As to the circumstances in which a vacancy may occur in the office of Deputy Mayor see PARA 83 ante.

11 As to the Chair of the London Assembly see PARA 84 ante. As to the London Assembly see PARA 82 ante.

12 Greater London Authority Act 1999 Sch 4 paras 14(1), 18(2)(a).

13 *Ibid* Sch 4 paras 14(1)(a), 18(2)(a). This does not apply in relation to: (1) any function exercisable under Sch 6 or Sch 7 (budgetary requirements: see PARAS 234, 236 post) (Sch 4 paras 15(1)(a), 18(2)(a)); (2) any functions in relation to the preparation, alteration or replacement of strategies under the Greater London

Authority Act 1999 (see PARA 177 et seq post) (Sch 4 paras 15(1)(b), 18(2)(a)); or (3) any function of making: (a) any appointment of a member of any of the functional bodies (Sch 4 paras 15(1)(c), (2)(a), 18(2)(a)); (b) any appointment of a member of any other body corporate under or by virtue of the Greater London Authority Act 1999 (Sch 4 paras 15(1)(c), (2)(b), 18(2)(a)); or (c) any appointment of political advisors or staff under s 67(1) (see PARAS 133-134 post) (Sch 4 paras 15(1)(c), (2)(c), 18(2)(a)). As to the functional bodies see PARAS 213-218 post.

14 Ibid Sch 4 paras 14(1)(b), 18(2)(a). This is subject to the provisions of Sch 4 paras 15-18: see Sch 4 paras 14(2), 18(2)(a).

15 Ibid Sch 4 para 18(3).

16 Ie by the operation of ibid Sch 4 para 18(3).

17 Ibid Sch 4 para 18(4). As to the Deputy Chair of the Assembly see PARA 84 ante. If and so long as any functions of the Chair are, by virtue of Sch 4 para 18(4), exercisable by the Deputy Chair, the Deputy Chair may not exercise any of his other functions (Sch 4 para 18(5)) and, if and so long as the Deputy Chair is so precluded from exercising any of his functions, those functions are exercisable instead by a person ('the acting Deputy Chair') elected for the purpose at a meeting of the Assembly from among the Assembly members (Sch 4 para 18(6)). A person may not at the same time hold office as acting Deputy Chair and as Mayor, Deputy Mayor, Chair or Deputy Chair (Sch 4 para 18(7)), and if the acting Deputy Chair becomes Mayor, Deputy Mayor, Chair or Deputy Chair, a vacancy occurs in the office of acting Deputy Chair (Sch 4 para 18(8)). For the meaning of 'Assembly member' see PARA 82 note 3 ante.

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## **(v) Salaries, Expenses and Pensions**

### **131. Salaries and expenses payable to Mayor of London and Assembly members.**

The Greater London Authority<sup>1</sup> must pay to the Mayor of London<sup>2</sup> and the Assembly members<sup>3</sup> salaries at such levels as the Authority from time to time determines<sup>4</sup>. Such a determination<sup>5</sup> may provide for a higher level of salary to be payable to the Mayor than to any Assembly member<sup>6</sup>, for higher levels of salaries to be payable to Assembly members holding the offices of Deputy Mayor<sup>7</sup> or Chair of the Assembly<sup>8</sup> than to other Assembly members<sup>9</sup>, and for different salaries to be payable to Assembly members holding different such offices<sup>10</sup>, and may provide for levels of salaries or allowances to change from time to time by reference to a specified formula<sup>11</sup>. The Secretary of State may by order make provision for reducing the amount of the salary payable to Authority members<sup>12</sup> to whom relevant remuneration<sup>13</sup> in respect of their holding of other specified public offices<sup>14</sup> is payable<sup>15</sup>.

The Authority may pay to the Mayor and the Assembly members, in respect of expenses incurred in the exercise of their functions, allowances at such levels as the Authority may from time to time determine<sup>16</sup>. Such a determination<sup>17</sup> may provide for different allowances for different cases<sup>18</sup>.

The standing orders of the Authority<sup>19</sup> must contain provision for the publication of information relating to sums paid as salary and expenses<sup>20</sup> for each financial year<sup>21</sup>, and must include provision for the publication of every determination relating to salaries and expenses<sup>22</sup>.

1 As to the establishment of the Greater London Authority see PARA 79 ante.

2 As to the Mayor of London see PARA 81 ante.

3 For the meaning of 'Assembly members' see PARA 82 note 3 ante. As to the London Assembly see PARA 82 ante.

4 Greater London Authority Act 1999 s 24(1)(a). The Authority's functions of making determinations under s 24 are functions of the Authority which are exercisable by the Mayor and the Assembly acting jointly on behalf of the Authority: s 24(7).

Before the Authority's first determination, salaries were payable, subject to the same considerations as are applicable to the salary determinations of the Authority (see s 24(3); and notes 5-10 infra), at levels directed by the Secretary of State: see s 24(1)(b). As to the Secretary of State see PARA 12 note 2 ante. As to the giving of directions see PARA 13 ante. The Secretary of State was required to publish any direction under s 24 as soon as was reasonably practicable after it was given: s 24(9).

5 I.e. a determination under *ibid* s 24(1)(a).

6 *Ibid* s 24(3)(a).

7 As to the office of Deputy Mayor see PARA 83 ante.

8 As to the office of Chair of the Assembly see PARA 84 ante.

9 Greater London Authority Act 1999 s 24(3)(b), (4).

10 *Ibid* s 24(3)(c).

11 Ibid s 24(6).

12 The provision that may be made is provision that the amount of the salary payable to an Authority member (ie the Mayor or an Assembly member (ibid s 25(2))) under s 24 is to be reduced to a specified proportion of what it otherwise would be or to a specified amount (s 25(3)(a)) or is to be reduced by the amount of the relevant remuneration payable to him as mentioned in s 25(1) (see note 15 infra), by a specified proportion of that amount or by some other specified amount (s 25(3)(b)).

13 'Relevant remuneration' means a salary or any allowance of a description specified in an order made by the Secretary of State: ibid s 25(2). See note 15 infra.

14 The remuneration referred to is remuneration payable: (1) pursuant to a resolution (or combination of resolutions) of either House of Parliament relating to the remuneration of members of that House (see PARLIAMENT vol 78 (2010) PARAS 845, 915 et seq) (ibid s 25(1)(a)); (2) under the European Parliament (Pay and Pensions) Act 1979 s 1 (remuneration of United Kingdom MEPs) (Greater London Authority Act 1999 s 25(1)(b)); or (3) in respect of their membership of any other public body (whether elected or appointed) which is specified in the order (s 25(1)(c)). At the date at which this volume states the law no such other public body had been specified.

15 Ibid s 25(1). Pursuant to this power the Secretary of State has ordered that if relevant remuneration is payable to a person who is the Mayor or an Assembly member, the amount of any salary which would (but for these provisions) be payable to that person under s 24 must be reduced to two-thirds of what it would otherwise be: Greater London Authority (Limitation of Salaries) Order 2000, SI 2000/1032, art 3. For these purposes, 'relevant remuneration' means a salary payable: (1) pursuant to a resolution (or combination of resolutions) of either House of Parliament relating to the remuneration of members of that House (see PARLIAMENT vol 78 (2010) PARAS 845, 915 et seq) (art 2(a)); or (2) under the European Parliament (Pay and Pensions) Act 1979 s 1 (remuneration of MEPs) (Greater London Authority (Limitation of Salaries) Order 2000, SI 2000/1032, art 2(b)).

An order under the Greater London Authority Act 1999 s 25(1) may make different provision in relation to Authority members to whom (apart from the order) different amounts of salary would be payable under s 24 (s 25(4)(a)) or to whom different amounts of relevant remuneration are payable as mentioned in s 25(1) (s 25(4)(b)). No such provision is made in the Greater London Authority (Limitation of Salaries) Order 2000, SI 2000/1032.

An order may also include provision that it (or a specified part of it) is not to apply to a specified Authority member or description of Authority members: (a) either indefinitely or for a specified period (Greater London Authority Act 1999 s 25(5)(a)); and (b) either unconditionally or subject to the fulfilment of specified conditions (s 25(5)(b)). No such provision is made in the Greater London Authority (Limitation of Salaries) Order 2000, SI 2000/1032.

16 Greater London Authority Act 1999 s 24(2)(a). As to the functions of the Greater London Authority see PARA 164 et seq post.

Before the Authority's first determination, expenses were payable at levels directed by the Secretary of State: see s 24(2)(b). See note 4 supra.

17 Ie a determination under ibid s 24(2)(a).

18 Ibid s 24(5).

19 As to standing orders of the Authority see PARA 140 post.

20 Ie sums paid under the Greater London Authority Act 1999 s 24: see the text and notes 1-18 supra.

21 Ibid s 27. 'Financial year' means a period of 12 months ending with 31 March: s 424(1).

22 Ibid s 24(8). The determinations referred to in the text are those under s 24: see the text and notes 1-18 supra.

## UPDATE

### **131 Salaries and expenses payable to Mayor of London and Assembly members**

TEXT AND NOTES--As to the payments on ceasing to hold office see PARA 132A

NOTE 15--Now, if relevant remuneration is payable to a person who is the Mayor or an Assembly member, the amount of any salary which would, but for these provisions, be payable to that person under 1999 Act s 24 will (1) in relation to a term of office as the Mayor or an Assembly member which begins before 1 May 2008, be reduced to two thirds of what it would otherwise be; and (2) in relation to a term of office as the Mayor or an Assembly member which begins on or after 1 May 2008, be reduced to one third of what it would otherwise be: SI 2000/1032 art 3 (substituted by SI 2008/724).

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### **132. Pensions payable to or in respect of Mayor of London and Assembly members.**

The Greater London Authority<sup>1</sup> may make such provision for the payment of pensions to or in respect of persons who have ceased to be the Mayor of London<sup>2</sup> or an Assembly member<sup>3</sup> as the Authority may from time to time determine<sup>4</sup>. The provision which may be made<sup>5</sup> includes, in particular, provision for the making of payments towards the provision of superannuation benefits<sup>6</sup>, provision for establishing and administering one or more schemes for the provision of such benefits<sup>7</sup>, and provision for the making of payments<sup>8</sup> to any scheme<sup>9</sup> of which the Mayor or an Assembly member may be or become a member<sup>10</sup>. Different provision may be made for different cases<sup>11</sup>. A determination will not affect pensions in payment before the making of the determination<sup>12</sup>.

The standing orders of the Authority<sup>13</sup> must contain provision for the publication of information relating to sums paid pursuant to pension arrangements<sup>14</sup> for each financial year<sup>15</sup>, and must include provision for the publication of every determination relating to pension arrangements<sup>16</sup>.

1 As to the establishment of the Greater London Authority see PARA 79 ante.

2 As to the Mayor of London see PARA 81 ante. For the circumstances other than election defeat under which a person may cease to be the Mayor of London see PARAS 117-122 ante.

3 For the meaning of 'Assembly member' see PARA 82 note 3 ante. As to the London Assembly see PARA 82 ante. For the circumstances other than election defeat under which a person may cease to be an Assembly member see PARAS 107-113 ante.

4 Greater London Authority Act 1999 s 26(1)(a). The Authority's function of determining the provision that may be made under s 26(1) is a function of the Authority which is exercisable by the Mayor and the Assembly acting jointly on behalf of the Authority: s 26(4).

Before the Authority's first determination, provision for the payment of pensions was made, subject to the same considerations as are applicable to the pension determinations of the Authority (see s 26(2); and notes 5-10 infra), as directed by the Secretary of State: see s 26(1)(b). As to the Secretary of State see PARA 12 note 2 ante. As to the giving of directions see PARA 13 ante. The Secretary of State was required to publish any direction under s 26 as soon as was reasonably practicable after it was given: s 26(6).

5 Ie under *ibid* s 26.

6 *Ibid* s 26(2)(a).

7 *Ibid* s 26(2)(b).

8 Ie such payments as are mentioned in *ibid* s 26(2)(a): see the text and note 6 supra.

9 Ie whether or not established or administered by virtue of *ibid* s 26(2)(b): see the text and note 7 supra.

10 *Ibid* s 26(2)(c).

11 *Ibid* s 26(3).

12 *Ibid* s 26(7). Similarly, the initial direction of the Secretary of State (see note 4 supra) could not affect pensions in payment before the making of the direction: s 26(7).

13 As to standing orders of the Authority see PARA 140 post.

14 Ie sums paid under the Greater London Authority Act 1999 s 26: see the text and notes 1-12 supra.

15 Ibid s 27. For the meaning of 'financial year' see PARA 131 note 21 ante.

16 Ibid s 26(5). The determinations referred to in the text are those under s 26: see the text and notes 1-12 supra.

## **UPDATE**

### **132 Pensions payable to or in respect of Mayor of London and Assembly members**

TEXT AND NOTES--As to the payments on ceasing to hold office see PARA 132A



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**132A. Payments on ceasing to hold office.**

The Greater London Authority<sup>1</sup> may establish and administer such schemes as it may from time to time determine for the making of payments to or in respect of persons on their ceasing to hold office as the Mayor of London<sup>2</sup> or as an Assembly member<sup>3</sup>. This includes power to make different provision for different cases<sup>4</sup>. The standing orders of the Assembly must include provision for the publication of every such determination<sup>5</sup>. A determination does not affect benefits in payment under this section before the making of the determination<sup>6</sup>.

1 As to the establishment of the Greater London Authority see PARA 79.

2 As to the Mayor of London see PARA 81.

3 Greater London Authority Act 1999 s 26A(1) (s 26A added by the Greater London Authority Act 2007 s 1). For the meaning of 'Assembly member' see PARA 82 note 3. As to the London Assembly see PARA 82. The Authority's functions under the 1999 Act s 26A(1) are exercisable by the Mayor and the Assembly acting jointly on behalf of the Authority: s 26A(3).

4 Greater London Authority Act 1999 s 26A(2).

5 Greater London Authority Act 1999 s 26A(4).

6 Greater London Authority Act 1999 s 26A(5).

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/3. THE GREATER LONDON AUTHORITY/ (3) OFFICERS, STAFF AND ACCOMMODATION/(i) Appointment of Staff/133. Appointment of political advisers by the Mayor of London.

### **(3) OFFICERS, STAFF AND ACCOMMODATION**

#### **(i) Appointment of Staff**

##### **133. Appointment of political advisers by the Mayor of London.**

The Mayor of London<sup>1</sup> may appoint not more than two persons as his political advisers<sup>2</sup>. Any such appointment is an appointment as an employee of the Greater London Authority<sup>3</sup>, and no such appointment may be such as to extend beyond the term of office for which the Mayor was elected<sup>4</sup>. A person so appointed<sup>5</sup> is employed on such terms and conditions (including conditions as to remuneration<sup>6</sup>) as the Mayor thinks fit, within the financial resources available to the Authority<sup>7</sup>, and may not be required to perform any work or services for the Assembly or any member of the Assembly<sup>8</sup>.

Where the Mayor makes such an appointment, he must report to the London Assembly, in writing, the name of the person appointed<sup>9</sup>, the post to which the person has been appointed<sup>10</sup>, and the terms and conditions on which the person has been appointed<sup>11</sup>.

1 As to the Mayor of London see PARA 81 ante.

2 Greater London Authority Act 1999 s 67(1)(a).

3 Ibid s 67(3). As to the establishment of the Greater London Authority see PARA 79 ante. The Local Government and Housing Act 1989 s 9(1), (9), (11) (s 9(11) as amended) (assistants for political groups: see LOCAL GOVERNMENT vol 69 (2009) PARA 432) applies in relation to any appointment under the Greater London Authority Act 1999 s 67(1)(a) as if the Greater London Authority were the council of a county, a county borough, a district or a London borough, and as if any appointment to either of the posts in question were the appointment of a person in pursuance of the Local Government and Housing Act 1989 s 9 (as amended) (Greater London Authority Act 1999 s 67(8)), and the Local Government and Housing Act 1989 s 8 (as amended) (duty to adopt standing orders with respect to staff: see LOCAL GOVERNMENT vol 69 (2009) PARA 434) applies in relation to staff appointed under the Greater London Authority Act 1999 s 67(1) as if the Greater London Authority were a local authority of any of the descriptions specified in the Local Government and Housing Act 1989 s 21(1)(a)-(e) (as amended) (see LOCAL GOVERNMENT vol 69 (2009) PARA 23) (Greater London Authority Act 1999 s 67(7)).

The provisions of the Local Government Act 1972 s 117 (as amended) requiring local authority officers to disclose any financial interests in contracts which have been or are proposed to be entered into by the authority apply in relation to employees of the Greater London Authority as if the Authority were a local authority and its employees were officers employed by that local authority: see the Greater London Authority Act 1999 s 71; and LOCAL GOVERNMENT vol 69 (2009) PARA 440.

Employment with the Authority is included among the kinds of employment to which a scheme under the Superannuation Act 1972 s 1 (see SOCIAL SECURITY AND PENSIONS vol 44(2) (Reissue) PARAS 875-876) can apply: Greater London Authority Act 1999 s 389(1)(a). See further ss 389(3)-(6), 390; and the Superannuation Act 1972 Sch 1 (amended by the Greater London Authority Act 1999 s 389(2)).

4 Greater London Authority Act 1999 s 67(4). As to the election and term of office of the Mayor see PARA 100 ante.

5 Ie appointed under ibid s 67(1): see the text and notes 1-2 supra.

6 The provisions of the Local Government Act 1972 s 117 (as amended) prohibiting local authority officers from accepting any fee or reward other than their proper remuneration apply in relation to employees of the Greater London Authority as if the Authority were a local authority and its employees were officers employed by that local authority: see the Greater London Authority Act 1999 s 71; and LOCAL GOVERNMENT vol 69 (2009) PARA 440.

- 7 Ibid s 70(1).
- 8 Ibid s 70(3). As to the London Assembly see PARA 82 ante.
- 9 Ibid s 67(5)(a).
- 10 Ibid s 67(5)(b).
- 11 Ibid s 67(5)(c).

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/3. THE GREATER LONDON AUTHORITY/ (3) OFFICERS, STAFF AND ACCOMMODATION/(i) Appointment of Staff/134. Appointment of other staff by the Mayor of London.

### **134. Appointment of other staff by the Mayor of London.**

The Mayor of London<sup>1</sup> may appoint, in addition to two political advisers<sup>2</sup>, not more than ten other members of staff<sup>3</sup>. Any such appointment is an appointment as an employee of the Greater London Authority<sup>4</sup>, and no such appointment may be such as to extend beyond the term of office for which the Mayor was elected<sup>5</sup>. A person so appointed<sup>6</sup> is employed on such terms and conditions (including conditions as to remuneration<sup>7</sup>) as the Mayor thinks fit, within the financial resources available to the Authority<sup>8</sup>. It is a condition of the employment of any person so appointed<sup>9</sup> that he attends every meeting of the Assembly<sup>10</sup> which he is requested by the Assembly to attend<sup>11</sup> and answers any questions put to him by Assembly members<sup>12</sup> at any such meeting<sup>13</sup>; but, subject to this condition, a person so appointed may not be required to perform any work or services for the Assembly or any member of the Assembly<sup>14</sup>.

Where the Mayor makes such an appointment, he must report to the London Assembly, in writing, the name of the person appointed<sup>15</sup>, the post to which the person has been appointed<sup>16</sup>, and the terms and conditions on which the person has been appointed<sup>17</sup>.

1 As to the Mayor of London see PARA 81 ante.

2 As to the appointment of political advisers by the Mayor see PARA 133 ante.

3 Greater London Authority Act 1999 s 67(1)(b).

4 Ibid s 67(3). As to the establishment of the Greater London Authority see PARA 79 ante. The Local Government and Housing Act 1989 s 7 (as amended) (staff to be appointed on merit: see LOCAL GOVERNMENT vol 69 (2009) PARA 425) applies in relation to any appointment under the Greater London Authority Act 1999 s 67(1)(b) as if the Greater London Authority were a local authority: s 67(6). For the meaning of 'local authority' see PARA 17 note 9 ante. The Local Government and Housing Act 1989 s 8 (as amended) (duty to adopt standing orders with respect to staff: see LOCAL GOVERNMENT vol 69 (2009) PARA 434) applies in relation to staff appointed under the Greater London Authority Act 1999 s 67(1) as if the Greater London Authority were a local authority of any of the descriptions specified in the Local Government and Housing Act 1989 s 21(1)(a)-(e) (as amended) (see LOCAL GOVERNMENT vol 69 (2009) PARA 23): Greater London Authority Act 1999 s 67(7).

The provisions of the Local Government Act 1972 s 117 (as amended) requiring local authority officers to disclose any financial interests in contracts which have been or are proposed to be entered into by the authority apply in relation to employees of the Greater London Authority as if the Authority were a local authority and its employees were officers employed by that local authority: see the Greater London Authority Act 1999 s 71; and LOCAL GOVERNMENT vol 69 (2009) PARA 440.

Employment with the Authority is included among the kinds of employment to which a scheme under the Superannuation Act 1972 s 1 (see SOCIAL SECURITY AND PENSIONS vol 44(2) (Reissue) PARAS 875-876) can apply: Greater London Authority Act 1999 s 389(1)(a). See further ss 389(3)-(6), 390; and the Superannuation Act 1972 Sch 1 (amended by the Greater London Authority Act 1999 s 389(2)).

5 Greater London Authority Act 1999 s 67(4). As to the election and term of office of the Mayor see PARA 100 ante.

6 Ie appointed under ibid s 67(1); see the text and notes 1-3 supra.

7 The provisions of the Local Government Act 1972 s 117 (as amended) prohibiting local authority officers from accepting any fee or reward other than their proper remuneration apply in relation to employees of the Greater London Authority as if the Authority were a local authority and its employees were officers employed by that local authority: see the Greater London Authority Act 1999 s 71; and LOCAL GOVERNMENT vol 69 (2009) PARA 441.

8 Ibid s 70(1).

9     le appointed under *ibid* s 67(1)(b): see the text and notes 1-3 *supra*.

10    le every meeting held pursuant to *ibid* s 52(3): see *PARA 141 post*. As to the London Assembly see *PARA 82 ante*.

11    *Ibid* s 70(5)(a).

12    For the meaning of 'Assembly members' see *PARA 82 note 3 ante*.

13    Greater London Authority Act 1999 s 70(5)(b). The requirement of s 70(5)(b) is that the person must, so far as reasonably practicable, answer any such question orally at the meeting at which it is put (s 70(6)(a)) or, if for any reason it is not reasonably practicable to do that, provide a written answer before the end of the third working day following the day on which the question was first asked at the meeting (s 70(6)(b)). For the meaning of 'working day' see *PARA 159 note 3 post*; definition applied by s 70(8).

14    *Ibid* s 70(3).

15    *Ibid* s 67(5)(a).

16    *Ibid* s 67(5)(b).

17    *Ibid* s 67(5)(c).

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/3. THE GREATER LONDON AUTHORITY/ (3) OFFICERS, STAFF AND ACCOMMODATION/(i) Appointment of Staff/135. Appointment of staff by the London Assembly.

### **135. Appointment of staff by the London Assembly.**

The London Assembly<sup>1</sup>, after consultation with the Mayor of London<sup>2</sup> and taking into account, in particular, the manner in which, and the extent to which, the Mayor has exercised, or proposes to exercise, his powers of appointment<sup>3</sup>, and any views of the Mayor as to the exercise of the Assembly's powers of appointment<sup>4</sup>, may appoint such staff as it considers necessary for the proper discharge of such functions of the Greater London Authority<sup>5</sup> as are respectively exercisable by the Mayor, the Assembly, and the Mayor and Assembly acting jointly<sup>6</sup>. Any such appointment is an appointment as an employee of the Authority<sup>7</sup>.

A person so appointed<sup>8</sup> is employed on such terms and conditions (including conditions as to remuneration<sup>9</sup>) as the Assembly, after consultation with the Mayor, thinks fit<sup>10</sup>.

1 As to the London Assembly see PARA 82 ante.

2 As to the Mayor of London see PARA 81 ante.

3 Greater London Authority Act 1999 s 67(2)(a). For the Mayor's powers of appointment see PARAS 133-134 ante.

4 Ibid s 67(2)(b). The powers of appointment referred to in the text are those under s 67(2).

5 As to the establishment of the Greater London Authority see PARA 79 ante.

6 Greater London Authority Act 1999 s 67(2). The Assembly may arrange for a member of staff of the Authority appointed under s 67(2) to exercise on the Assembly's behalf any function exercisable by the Assembly under s 67(2): s 54(2). As to the functions of the Greater London Authority, and the exercise of them, see PARA 164 et seq post.

7 Ibid s 67(3). The Local Government and Housing Act 1989 s 7 (as amended) (staff to be appointed on merit: see LOCAL GOVERNMENT vol 69 (2009) PARA 425) applies in relation to any appointment under the Greater London Authority Act 1999 s 67(2) as if the Greater London Authority were a local authority: s 67(6). For the meaning of 'local authority' see PARA 17 note 9 ante. The Local Government and Housing Act 1989 s 8 (as amended) (duty to adopt standing orders with respect to staff: see LOCAL GOVERNMENT vol 69 (2009) PARA 434) applies in relation to staff appointed under the Greater London Authority Act 1999 s 67(2) as if the Greater London Authority were a local authority of any of the descriptions specified in the Local Government and Housing Act 1989 s 21(1)(a)-(e) (as amended) (see LOCAL GOVERNMENT vol 69 (2009) PARA 23): Greater London Authority Act 1999 s 67(7).

The provisions of the Local Government Act 1972 s 117 (as amended) requiring local authority officers to disclose any financial interests in contracts which have been or are proposed to be entered into by the authority apply in relation to employees of the Greater London Authority as if the Authority were a local authority and its employees were officers employed by that local authority: see the Greater London Authority Act 1999 s 71; and LOCAL GOVERNMENT vol 69 (2009) PARA 440.

Employment with the Authority is included among the kinds of employment to which a scheme under the Superannuation Act 1972 s 1 (see SOCIAL SECURITY AND PENSIONS vol 44(2) (Reissue) PARAS 875-876) can apply: Greater London Authority Act 1999 s 389(1)(a). See further ss 389(3)-(6), 390; and the Superannuation Act 1972 Sch 1 (amended by the Greater London Authority Act 1999 s 389(2)).

8 Ie appointed under ibid s 67(2): see the text and notes 1-6 supra.

9 The provisions of the Local Government Act 1972 s 117 (as amended) prohibiting local authority officers from accepting any fee or reward other than their proper remuneration apply in relation to employees of the Greater London Authority as if the Authority were a local authority and its employees were officers employed by that local authority: see the Greater London Authority Act 1999 s 71; and LOCAL GOVERNMENT vol 69 (2009) PARA 441.

10 Ibid s 70(2). The Assembly may arrange for a member of staff of the Authority appointed under s 67(2) (see the text and notes 1-6 supra) to exercise on the Assembly's behalf any function exercisable by the Assembly under s 70(2): s 54(2).

## **UPDATE**

### **135 Appointment of staff by the London Assembly**

TEXT AND NOTES--1999 Act s 67(2) substituted: Greater London Authority Act 2007 s 7(1).

TEXT AND NOTE 10--1999 Act s 70(2) amended: Greater London Authority Act 2007 s 7(2).

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/3. THE GREATER LONDON AUTHORITY/ (3) OFFICERS, STAFF AND ACCOMMODATION/ (ii) Designation of Officers/136. Head of paid service.

## **(ii) Designation of Officers**

### **136. Head of paid service.**

The Greater London Authority<sup>1</sup> must designate one of its officers as the head of its paid service<sup>2</sup>, and provide that officer with such staff, accommodation and other resources as are, in his opinion, sufficient to allow his duties to be performed<sup>3</sup>. It is the duty of the head of paid service, where he considers it appropriate to do so, to prepare a report<sup>4</sup> to the Authority setting out his proposals in respect of<sup>5</sup>:

- 195 (1) the manner in which the discharge by the Authority of its different functions<sup>6</sup> is co-ordinated<sup>7</sup>;
- 196 (2) the number and grades of staff required by the Authority for the discharge of its functions<sup>8</sup>;
- 197 (3) the organisation of the Authority's staff<sup>9</sup>; and
- 198 (4) the appointment and proper management of the Authority's staff<sup>10</sup>.

As soon as practicable after he has prepared such a report, the head of the Authority's paid service must arrange for a copy to be sent to each member of the Authority<sup>11</sup>. The Authority must then consider the report at a meeting held not more than three months after copies of the report are first sent to the Authority's members<sup>12</sup>.

1 As to the establishment of the Greater London Authority see PARA 79 ante.

2 Local Government and Housing Act 1989 s 4(1)(a); Greater London Authority Act 1999 s 72(1). This duty is discharged by the London Assembly after consultation with the Mayor of London: s 72(3), (4). The person designated must be a member of staff appointed under s 67(2) (see PARA 135 ante): s 72(2). As to the Mayor of London see PARA 81 ante. As to the London Assembly see PARA 82 ante.

3 Local Government and Housing Act 1989 s 4(1)(b); Greater London Authority Act 1999 s 72(1). This duty, so far as relating to the provision of staff, must be discharged by the Assembly (s 72(3), (5)(a)) and, so far as relating to the provision of accommodation or other resources, must be discharged by the Mayor (s 72(3), (5)(b)).

4 Any report prepared under these provisions must be a report to the Mayor and the Assembly (ibid s 72(3), (6)), and it is the duty of the Mayor personally to consider any such report (s 72(3), (8)).

5 Local Government and Housing Act 1989 s 4(2); Greater London Authority Act 1999 s 72(1).

6 I.e. the functions of the Authority, whether exercisable by the Mayor, the Assembly, or the Mayor and Assembly acting jointly: ibid s 72(3), (7). As to the functions of the Greater London Authority, and the exercise of them, see PARA 164 et seq post.

7 Local Government and Housing Act 1989 s 4(3)(a); Greater London Authority Act 1999 s 72(1).

8 Local Government and Housing Act 1989 s 4(3)(b); Greater London Authority Act 1999 s 72(1). See note 6 supra.

9 Local Government and Housing Act 1989 s 4(3)(c); Greater London Authority Act 1999 s 72(1).

10 Local Government and Housing Act 1989 s 4(3)(d); Greater London Authority Act 1999 s 72(1).

11 Local Government and Housing Act 1989 s 4(4); Greater London Authority Act 1999 s 72(1).



12 Local Government and Housing Act 1989 s 4(5); Greater London Authority Act 1999 s 72(1). Nothing in s 54 (discharge of functions by committees or single members: see PARAS 135 ante, 144, 170-171 post) applies to the duty imposed by virtue of the Local Government and Housing Act 1989 s 4(5) and the Greater London Authority Act 1999 s 72(1) (s 72(3), (9)).

The meeting held to consider any such report is a meeting of the Assembly, which must not be held until either the Mayor has submitted to the Chair of the Assembly a written statement of his views on the report (s 72(3), (9)(a)) or the period of one month has elapsed since copies of the report were first sent to members of the Assembly without the Mayor having submitted any such statement (s 72(3), (9)(b)). In considering any such report at any such meeting, the Assembly must take account of any views on the report which have been expressed by the Mayor in a statement submitted under s 72(9)(a): s 72(3), (10)). As to the Chair of the Assembly see PARA 84 ante.

## **UPDATE**

### **136 Head of paid service**

TEXT AND NOTES--1999 Act s 72(1) substituted: Greater London Authority Act 2007 s 8(2).

NOTES 2-4, 6, 12--1999 Act s 72(3) amended: Greater London Authority Act 2007 s 8(4).

NOTE 2--1999 Act s 72(2) substituted: Greater London Authority Act 2007 s 8(3).

TEXT AND NOTE 3--1999 Act s 72(5)(a) amended: Greater London Authority Act 2007 s 7(3).

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/3. THE GREATER LONDON AUTHORITY/ (3) OFFICERS, STAFF AND ACCOMMODATION/ (ii) Designation of Officers/137. Monitoring officer.

### **137. Monitoring officer.**

The Greater London Authority<sup>1</sup> must designate one of its officers as the monitoring officer<sup>2</sup>. It must provide that officer with such staff, accommodation and other resources as are, in his opinion, sufficient to allow his duties to be performed<sup>3</sup>. It is the duty of the monitoring officer, if at any time it appears to him that any proposal, decision or omission of a GLA body or person<sup>4</sup> has given rise to, or is likely to or would give rise to a contravention by that or any other GLA body or person of any enactment or rule of law<sup>5</sup>, or specified maladministrations or injustices<sup>6</sup>, to prepare a report<sup>7</sup> to the Mayor of London and the London Assembly with respect to that proposal, decision or omission<sup>8</sup>. It is the duty of the Authority or any relevant committee<sup>9</sup> to consider any such report<sup>10</sup> at a meeting<sup>11</sup> held not more than<sup>12</sup> 21 days after copies of the report are first sent to members of the Authority or committee<sup>13</sup>. The Authority must ensure that no step is taken for giving effect to any proposal or decision to which such a report relates at any time while the implementation of the proposal or decision is suspended in consequence of the report<sup>14</sup>.

The duties of the Authority's monitoring officer<sup>15</sup> must be performed by him personally or, where he is unable to act owing to absence or illness, personally by such member of his staff as he has for the time being nominated as his deputy for these purposes<sup>16</sup>.

1 As to the establishment of the Greater London Authority see PARA 79 ante.

2 Local Government and Housing Act 1989 s 5(1)(a); Greater London Authority Act 1999 s 73(1). This duty must be discharged by the London Assembly after consultation with the Mayor of London: s 73(3), (4). As to the Mayor of London see PARA 81 ante. As to the London Assembly see PARA 82 ante.

The person who is designated as the Authority's monitoring officer must be a member of staff appointed under s 67(2) (see PARA 135 ante): s 73(2). The officer so designated may not be the head of the Authority's paid service nor its chief finance officer: Local Government and Housing Act 1989 s 5(1), (1A), (1B)(e) (s 5(1) amended, and s 5(1A), (1B) added, by the Local Government Act 2000 s 107, Sch 5 para 24); Greater London Authority Act 1999 s 73(1). 'Chief finance officer' means the officer having responsibility, for the purposes of s 127(2) (see PARAS 250-252 post) for the administration of the Authority's financial affairs: Local Government and Housing Act 1989 s 5(8) (amended by the Greater London Authority Act 1999 s 132); Greater London Authority Act 1999 s 73(1). As to the head of the Authority's paid service see PARA 136 ante.

3 Local Government and Housing Act 1989 s 5(1)(b); Greater London Authority Act 1999 s 73(1). This duty, so far as relating to the provision of staff, must be discharged by the Assembly (s 73(3), (5)(a)) and, so far as relating to the provision of accommodation or other resources, must be discharged by the Mayor (s 73(3), (5)(b)). The duties of the monitoring officer are those imposed by the Local Government and Housing Act 1989 s 5 (as amended) and the Greater London Authority Act 1999 s 73(1): see the Local Government and Housing Act 1989 s 5(1).

Any reference in the Local Government and Housing Act 1989 to the duties of a monitoring officer imposed by s 5 (as amended) and the Greater London Authority Act 1999 s 73(1), or to the duties of a monitoring officer under the Local Government and Housing Act 1989 s 5 (as amended) and the Greater London Authority Act 1999 s 73(1), includes a reference to the functions which are conferred on a monitoring officer by virtue of the Local Government Act 2000 Pt III (ss 49-83) (as amended) (see LOCAL GOVERNMENT vol 69 (2009) PARAS 232-284): Local Government and Housing Act 1989 s 5(8A) (added by the Local Government Act 2000 Sch 5 para 24(1), (8)); Greater London Authority Act 1999 s 73(1).

4 For these purposes, 'GLA body or person' means: (1) the Greater London Authority; (2) Transport for London, when exercising any function of the Authority by virtue of ibid s 38 (see PARA 168 post); (3) the London Development Agency, when exercising any function of the Authority by virtue of s 38 or s 380 (see PARA 203 post); (4) the Mayor of London; (5) the London Assembly; (6) any committee or sub-committee of the London Assembly; (7) any committee or sub-committee of Transport for London or the London Development Agency, when exercising any function of the Authority in consequence of an authorisation under s 38 (or, in the case of

the London Development Agency, s 380); (8) any joint committee to which the Mayor has power to appoint members (whether or not the power is the subject of an authorisation under s 38(1)); (9) the Deputy Mayor; (10) any member of the London Assembly; (11) any member of staff of the Authority; or (12) any member, or member of staff, of Transport for London or the London Development Agency, when exercising, or acting in the exercise of, any function of the Authority in consequence of an authorisation under s 38 (or, in the case of a member or member of staff of the London Development Agency, s 380): Local Government and Housing Act 1989 s 5(2) (substituted by the Greater London Authority Act 1999 s 73(3), (6); and amended by the Greater London Authority (Miscellaneous Amendments) Order 2000, SI 2000/1435, art 2, Schedule paras 1, 5). For the purposes of this definition, any reference to a member of staff of a body includes a reference to an officer or employee of that body: Local Government and Housing Act 1989 s 5(2) (as so substituted and amended). For the meaning of 'member of staff', in relation to the Authority, see PARA 86 note 5 ante. For these purposes, references to a committee or sub-committee of the Authority include references to any local fisheries committee the members of which include persons so appointed, and any sub-committee appointed by such a committee: s 5(4) (amended by the Police and Magistrates' Courts Act 1994 s 93, Sch 9 Pt I; and the Environment Act 1995 s 120(3), Sch 24). As to the committees and sub-committees of the Assembly see PARAS 146-148, 170-172 post. As to Transport for London see PARAS 218, 269 et seq post. As to the London Development Agency see PARA 215 post; and TRADE AND INDUSTRY vol 97 (2010) PARA 988 et seq. As to the Deputy Mayor see PARA 83 ante.

5 Local Government and Housing Act 1989 s 5(2)(a) (as substituted: see note 4 supra).

6 Ibid s 5(2)(b) (as substituted: see note 4 supra). The maladministrations or injustices referred to in the text are any such maladministrations or injustices as are mentioned in the Local Government Act 1974 Pt III (ss 23-34) (as amended): see LOCAL GOVERNMENT vol 69 (2009) PARA 839-866. No duty arises by virtue of the Local Government and Housing Act 1989 s 5(2)(b) (as substituted) unless a Local Commissioner (within the meaning of the Local Government Act 1974: see LOCAL GOVERNMENT vol 69 (2009) PARA 839) has conducted an investigation under Pt III (as amended) in relation to the proposal, decision or omission concerned: Local Government and Housing Act 1989 s 5(2A) (added by the Local Government Act 2000 Sch 5 para 24(1), (6)); Greater London Authority Act 1999 s 73(1).

7 It is the duty of the monitoring officer in preparing a report under the Local Government and Housing Act 1989 s 5 (as amended) and the Greater London Authority Act 1999 s 73(1) to consult so far as practicable with the person who is for the time being designated as the head of the Authority's paid service and with its chief finance officer: Local Government and Housing Act 1989 s 5(3)(a) (amended by the Police and Magistrates' Courts Act 1994 s 43, Sch 4 Pt I para 35(c)); Greater London Authority Act 1999 s 73(1). As soon as practicable after the report has been prepared by him or his deputy, the monitoring officer must arrange for a copy of it to be sent to each member of the Authority: Local Government and Housing Act 1989 s 5(3)(b); Greater London Authority Act 1999 s 73(1). In relation to any committee or sub-committee referred to in the Local Government and Housing Act 1989 s 5(4) (as amended) and the Greater London Authority Act 1999 s 73(1) (see note 4 supra), the reference in the Local Government and Housing Act 1989 s 5(3)(b) to each member of the Authority has effect as a reference to each member of the committee or, as the case may be, of the committee which appointed the sub-committee: s 5(4) (as amended: see note 4 supra); Greater London Authority Act 1999 s 73(1).

8 Local Government and Housing Act 1989 s 5(2) (as substituted: see note 4 supra).

9 Ie any such committee as is mentioned in ibid s 5(4) (as amended) and the Greater London Authority Act 1999 s 73(1) (see notes 4, 7 supra).

10 Ie any report by a monitoring officer or his deputy under the Local Government and Housing Act 1989 s 5 (as amended) and the Greater London Authority Act 1999 s 73(1).

11 In the application of the Local Government and Housing Act 1989 s 5(5)(a) by virtue of the Greater London Authority Act 1999 s 73(3), (7)(b) or (c)(ii) (see note 13 infra), the meeting required to be held is a meeting of the Assembly: s 73(3), (8)(b). Standing orders of the Authority must make provision for or in connection with the period within which any meeting of the Assembly required by the Local Government and Housing Act 1989 s 5(5) by virtue of the Greater London Authority Act 1999 s 73(3), (7)(b) or (c)(ii) must, or must not, be held: s 73(11)(c).

12 In the application of the Local Government and Housing Act 1989 s 5(5)(a) by virtue of the Greater London Authority Act 1999 s 73(3), (7)(a) or (c)(i) (see the text and note 13 infra), the report must be considered within 21 days after copies of the report are first sent: see s 73(8)(a).

13 Local Government and Housing Act 1989 s 5(5)(a); Greater London Authority Act 1999 s 73(1).

The duties imposed on the Authority by the Local Government and Housing Act 1989 s 5(5), so far as relating to a proposal, decision or omission of a GLA body or person in the case of a function of the Authority exercisable by the Mayor (or, by virtue of an authorisation under the Greater London Authority Act 1999 s 38(1) (see PARA 168 post) or s 380 (see PARA 203 post), by a GLA body or person), must be discharged by the Mayor: s 73(3), (7)

(a) (amended by the Greater London Authority (Miscellaneous Amendments) Order 2000, SI 2000/1435, art 2, Schedule paras 1, 5).

The duties imposed on the Authority by the Local Government and Housing Act 1989 s 5(5), so far as relating to a proposal, decision or omission of a GLA body or person in the case of a function of the Authority exercisable by the Assembly (or, by virtue of arrangements under the Greater London Authority Act 1999 s 54 (see PARA 171 post), by a GLA body or person), must be discharged by the Assembly: s 73(3), (7)(b).

The duties imposed on the Authority by the Local Government and Housing Act 1989 s 5(5), so far as relating to a proposal, decision or omission of a GLA body or person in the case of a function of the Authority exercisable by the Mayor and the Assembly acting jointly, must be discharged separately: (1) by the Mayor, as if the case fell within the Greater London Authority Act 1999 s 73(7)(a); and (2) by the Assembly, as if the case fell within s 73(7)(b): s 73(3), (7)(c)(ii).

Where by virtue of s 73(3), (7), the Mayor or the Assembly is under a duty to consider a report, in discharging that duty the Mayor or the Assembly must take account of any views on the report which have been expressed by the other of them in a statement submitted: (a) by the Assembly to the Mayor (s 73(3), (10)(a)); or (b) by the Mayor to the Chair of the Assembly (s 73(3), (10)(b)). As to the Chair of the Assembly see PARA 84 ante. Standing orders of the Authority must make provision for or in connection with the period within which any statement by virtue of s 73(10) must be submitted (s 73(11)(a)) and the consideration of any such statement by the Mayor or, as the case may be, the Assembly (s 73(11)(b)).

The provisions of s 38 (see PARA 168 post), s 54 (see PARA 171 post) and s 380 (see PARA 203 post) do not apply in relation to the duty to consider a report imposed on the Mayor or the Assembly by virtue of s 73(3), (7): s 73(12) (amended by the Greater London Authority (Miscellaneous Amendments) Order 2000, SI 2000/1435, art 2, Schedule paras 1, 5).

14 Local Government and Housing Act 1989 s 5(5)(b); Greater London Authority Act 1999 s 73(1). See also note 13 supra. For the purposes of the Local Government and Housing Act 1989 s 5(5)(b), the implementation of a proposal or decision to which a report under s 5 (as amended) and the Greater London Authority Act 1999 s 73(1) relates must be suspended in consequence of the report until the end of the first business day after the day on which consideration of that report under the Local Government and Housing Act 1989 s 5(5)(a) and the Greater London Authority Act 1999 s 73(1) (see the text and notes 11-13 supra) is concluded: Local Government and Housing Act 1989 s 5(6); Greater London Authority Act 1999 s 73(1). For these purposes, 'business day' means any day which is not a Saturday or Sunday, Christmas Day, Good Friday or any day which is a bank holiday under the Banking and Financial Dealings Act 1971 in the area of the Authority: Local Government and Housing Act 1989 s 5(8); Greater London Authority Act 1999 s 73(1). See also TIME.

The duty under the Local Government and Housing Act 1989 s 5(5)(b) and the Greater London Authority Act 1999 s 73(1) is without prejudice to any duty imposed by virtue of the Local Government Finance Act 1988 s 115 (as amended) (Authority's duties as regards reports: see LOCAL GOVERNMENT vol 29(1) (Reissue) PARA 627) and s 115A (as added) (see PARA 252 post): Local Government and Housing Act 1989 s 5(5)(b); Greater London Authority Act 1999 s 73(1), (3), (9).

15 Ie under the Local Government and Housing Act 1989 s 5 (as amended) and the Greater London Authority Act 1999 s 73(1).

16 Local Government and Housing Act 1989 s 5(7); Greater London Authority Act 1999 s 73(1).

## **UPDATE**

### **137 Monitoring officer**

TEXT AND NOTES--1999 Act s 73(1) substituted: Greater London Authority Act 2007 s 9(2).

Local Government and Housing Act 1989 s 5 further amended: Marine and Coastal Access Act 2009 Sch 14 para 13 (not yet in force).

Local Government and Housing Act 1989 s 5 amended: Marine and Coastal Access Act 2009 Sch 22 Pt 4 (in force in relation to Wales: SI 2010/630).

NOTE 2--1989 Act s 5(1) further amended: Police and Justice Act 2006 Sch 14 para 16. 1999 Act s 73(2) substituted: Greater London Authority Act 2007 s 9(3). 1999 Act s 73(3) amended: Greater London Authority Act 2007 s 9(4). 1999 Act s 73(4) repealed: Greater London Authority Act 2007 s 9(5).

TEXT AND NOTE 3--1999 Act s 73(5) amended: Greater London Authority Act 2007 s 7(4).

TEXT AND NOTES 4-6--See also 1989 Act s 5(2)(c), (2AA) (added by Public Services Ombudsman (Wales) Act 2005 Sch 6 para 24); and LOCAL GOVERNMENT vol 69 (2009) PARA 429.

1989 Act s 5(2) further amended: Local Government and Public Involvement in Health Act 2007 Sch 12 para 14(2), Sch 18 Pt 14.

NOTE 4--1999 Act s 73(6) amended: Local Government and Public Involvement in Health Act 2007 Sch 12 para 16.

TEXT AND NOTE 16--The Local Government and Housing Act 1989 s 5(7) has effect subject to the Local Government Act 2000 s 82A (monitoring officers: delegation of functions under Pt 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 243): Local Government and Housing Act 1989 s 5(7A) (added by Local Government Act 2003 s 113(3)).

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/3. THE GREATER LONDON AUTHORITY/ (3) OFFICERS, STAFF AND ACCOMMODATION/(iii) Politically Restricted Posts/138. Disqualification of persons holding politically restricted posts from membership of the Greater London Authority.

### **(iii) Politically Restricted Posts**

#### **138. Disqualification of persons holding politically restricted posts from membership of the Greater London Authority.**

The statutory provisions disqualifying persons holding politically restricted posts<sup>1</sup> from becoming or remaining members of local authorities<sup>2</sup> have effect, subject to certain necessary modifications<sup>3</sup>, in relation to membership of the Greater London Authority as they have effect in relation to membership of local authorities<sup>4</sup>.

It is a condition of the employment of any person (other than a political adviser<sup>5</sup>) holding a politically restricted post<sup>6</sup> under the Authority<sup>7</sup> that he attends every meeting of the London Assembly<sup>8</sup> which he is requested by the Assembly to attend<sup>9</sup> and answers any questions put to him by Assembly members<sup>10</sup> at any such meeting<sup>11</sup>.

1 For the meaning of 'politically restricted post' see the Local Government and Housing Act 1989 s 2 (as amended); and LOCAL GOVERNMENT vol 69 (2009) PARA 122. As to exemption from disqualification see s 3; and LOCAL GOVERNMENT vol 69 (2009) PARAS 123-124.

2 Ie the Local Government and Housing Act 1989 ss 1-3 (ss 1, 2 as amended): see LOCAL GOVERNMENT vol 69 (2009) PARAS 120-124.

3 In ibid s 2(3), as it has effect in relation to the Greater London Authority by virtue of the Greater London Authority Act 1999 s 68(1), (2)(a), any reference to 'the authority' is taken to include a reference to the Mayor of London and a reference to the London Assembly: s 68(5). In the Local Government and Housing Act 1989 s 2 (as amended), so far as it has effect for the purposes of s 1 (as amended), the expression 'the statutory chief officers' is taken to include a reference to the chief finance officer of Transport for London and of the London Development Agency, whether he is an officer, employee, member of staff or member of Transport for London or, as the case may be, the London Development Agency: Greater London Authority Act 1999 s 68(6). As to the establishment of the Greater London Authority see PARA 79 ante. As to the Mayor of London see PARA 81 ante. As to the London Assembly see PARA 82 ante. For the meaning of 'chief finance officer' see PARAS 137 note 2 ante, 250 post. As to Transport for London see PARAS 218, 269 et seq post. As to the London Development Agency see PARA 215 post; and TRADE AND INDUSTRY vol 97 (2010) PARA 988 et seq.

4 Ibid s 68(1), (2)(a). A member of staff appointed by the Mayor (ie a person employed by the Authority by virtue of his appointment under s 67(1)(b) (see PARA 134 ante)) is not, by virtue only of s 68(1), (2), disqualified from being or becoming an unpaid member of Transport for London or the London Development Agency: s 68(3). For these purposes, the unpaid members of any body are those members of the body who do not receive any remuneration (whether from the body, the Authority or any other source) which they would not receive if they were not members of the body s 68(4).

5 Ie a person appointed under ibid s 67(1)(a) (see PARA 133 ante).

6 For the purposes of ibid s 70(4)(b), any question whether a person holds a politically restricted post under the Authority is determined in accordance with the provisions of the Local Government and Housing Act 1989 ss 2, 3 (s 2 as amended) (politically restricted posts: see LOCAL GOVERNMENT vol 69 (2009) PARAS 122-124) as those provisions have effect for the purposes of s 1 (see LOCAL GOVERNMENT vol 69 (2009) PARA 120) by virtue of the Greater London Authority Act 1999 s 68(1) (see the text and notes 1-4 supra): s 70(7).

7 Ibid s 70(4)(b).

8 Ie every meeting held pursuant to ibid s 52(3) (see PARA 141 post).

9 Ibid s 70(5)(a).

10 For the meaning of 'Assembly members' see PARA 82 note 3 ante.

11 Greater London Authority Act 1999 s 70(5)(b). The person must, so far as reasonably practicable, answer any such question orally at the meeting at which it is put (s 70(6)(a)) or, if for any reason it is not reasonably practicable to do that, provide a written answer before the end of the third working day following the day on which the question was first asked at the meeting (s 70(6)(b)). For the meaning of 'working day' see PARA 159 note 3 post; definition applied by s 70(8).

## **UPDATE**

### **138 Disqualification of persons holding politically restricted posts from membership of the Greater London Authority**

NOTES 4, 6--1999 Act ss 68(1), 70(7) amended: Local Government and Public Involvement in Health Act 2007 s 203(3)(b), (c).

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#### **(iv) Accommodation**

##### **139. Provision of accommodation.**

During the period of five years beginning with 11 November 1999<sup>1</sup>, the Secretary of State<sup>2</sup> is under a duty to provide accommodation for the Greater London Authority<sup>3</sup>, although if he is satisfied that appropriate accommodation is available or has been provided for the Authority he may by order make provision substituting for that five-year period such shorter period as he may determine<sup>4</sup>. The Secretary of State need not provide accommodation for the Authority<sup>5</sup> during any period as respects which the Authority has notified him that it does not require him to provide accommodation for it<sup>6</sup>.

1 This is the day on which the Greater London Authority Act 1999 was passed (ie received Royal Assent).

2 As to the Secretary of State see PARA 12 note 2 ante.

3 Greater London Authority Act 1999 s 401(1)(a). As to the establishment of the Greater London Authority see PARA 79 ante. The provision of accommodation under s 401(1) is to be on such financial and other terms as the Secretary of State may determine: s 401(5).

4 Ibid s 401(2). At the date at which this volume states the law no such order had been made. As to the making of orders generally see PARA 13 ante.

Where the Secretary of State has made an order under s 401(2) in the case of the Authority but subsequently considers that it is necessary, expedient or desirable to extend the period for the time being specified as it has effect in relation to the Authority, he may by order make provision substituting for that period (whether or not it has expired) such longer period as he may determine, ending not later than 10 November 2004 (ie the end of the period of five years beginning with the day on which the Greater London Authority Act 1999 was passed): s 401(3).

5 Ie under ibid s 401(1) (see the text and notes 1-3 supra).

6 Ibid s 401(4).



Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/3. THE GREATER LONDON AUTHORITY/(4) MEETINGS AND PROCEDURE/(i) Standing Orders/140. Regulation of procedure by standing orders.

## **(4) MEETINGS AND PROCEDURE**

### **(i) Standing Orders**

#### **140. Regulation of procedure by standing orders.**

The London Assembly<sup>1</sup>, in consultation with the Mayor of London<sup>2</sup>, may make standing orders of the Greater London Authority<sup>3</sup>. The procedure of the Assembly, and of any committees or sub-committees of the Assembly<sup>4</sup>, is regulated by standing orders of the Authority<sup>5</sup>. Standing orders of the Authority may also make provision:

- 199 (1) regulating the procedure to be followed by any member of the Assembly by whom functions of the Authority are exercisable<sup>6</sup>;
- 200 (2) regulating the procedure to be followed by any member of staff of the Authority by whom functions of the Authority are exercisable<sup>7</sup>;
- 201 (3) regulating the procedure to be followed by the Mayor or by the Assembly in discharging any functions of the Mayor or the Assembly, to the extent that the functions: (a) consist of consultation, or any other interaction or relationship, between the Mayor and the Assembly<sup>8</sup>; or (b) are exercisable by the Mayor in relation to the Assembly or by the Assembly in relation to the Mayor<sup>9</sup>; and
- 202 (4) for any other matter for which provision by standing orders of the Authority is authorised or required by or under any other provision of the Greater London Authority Act 1999 or any other enactment<sup>10</sup>.

Standing orders of the Authority may make different provision for different circumstances<sup>11</sup>.

The Assembly, after consultation with the Mayor, may at any time vary or revoke any standing orders of the Authority<sup>12</sup>.

1 As to the London Assembly see PARA 82 ante.

2 As to the Mayor of London see PARA 81 ante.

3 Greater London Authority Act 1999 s 36(1). As to the establishment of the Greater London Authority see PARA 79 ante. In the Greater London Authority Act 1999, or any other enactment which has effect in relation to the Authority, any reference to standing orders has effect, in its application in relation to the Authority, as a reference to standing orders of the Authority made under and in accordance with s 36: s 424(1), (3).

Neither s 38 (delegation: see PARA 168 post) nor s 54 (discharge of functions by committees or single members: see PARAS 144, 170-171 post) applies in relation to the functions of the Mayor or the Assembly under s 36: s 36(9).

4 As to the committees and sub-committees of the Assembly see PARAS 146-148, 170-172 post.

5 Greater London Authority Act 1999 s 36(2). The provisions of s 36(2)-(5) are subject to any other provision of the Greater London Authority Act 1999 or any other enactment which regulates, or provides for the regulation of, the procedure of the Assembly or any procedure to be followed by the Mayor: s 36(6).

6 Ibid s 36(3)(a). See note 5 supra. The functions referred to in the text are functions of the Authority which are exercisable by any member of the Assembly pursuant to arrangements under s 54: see PARAS 170-171 post. As to the functions of the Greater London Authority, and the exercise of them, see PARA 164 et seq post.

7 Ibid s 36(3)(b). See note 5 supra. The functions referred to in the text are functions of the Authority which are exercisable by any member of staff of the Authority pursuant to arrangements under s 54: see PARA 171 post. For the meaning of 'member of staff' in relation to the Authority see PARA 86 note 5 ante.

8 Ibid s 36(4)(a). See note 5 supra.

9 Ibid s 36(4)(b). See note 5 supra.

10 Ibid s 36(5). See note 5 supra.

11 Ibid s 36(7).

12 Ibid s 36(8).

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## **(ii) Meetings**

### **141. Meetings of the London Assembly.**

On such ten occasions in each calendar year as the London Assembly<sup>1</sup> may determine, there must be a meeting of the Assembly<sup>2</sup>: (1) to consider the Mayor of London's periodic report<sup>3</sup>; (2) to enable Assembly members<sup>4</sup> to put oral or written questions to the Mayor<sup>5</sup>, and oral questions to any employees of the Greater London Authority<sup>6</sup> who are required to attend such meetings and answer questions put to them by Assembly members<sup>7</sup>; and (3) to transact any other business on the agenda for the meeting<sup>8</sup>. The Mayor must attend every such meeting<sup>9</sup>.

Before the expiration of the period of ten days following the day of the poll at an ordinary election, there must be a meeting of the Assembly to elect the Chair and Deputy Chair of the Assembly<sup>10</sup>.

In addition to any meetings required to be held<sup>11</sup>, the Assembly may hold such other meetings as it may determine<sup>12</sup>. The Assembly may determine its own procedure (including quorum)<sup>13</sup>, although any such procedure is regulated by standing orders of the Authority<sup>14</sup>.

1 As to the London Assembly see PARA 82 ante.

2 Greater London Authority Act 1999 s 52(3). The first meeting under s 52(3) after an ordinary election must be held not later than 25 days after the day of the poll at the election: s 52(4). As to ordinary elections see PARA 89 ante. As to the notification of the time and place of meetings see PARA 142 post. As to the keeping of minutes of Assembly meetings see PARA 145 post.

The functions of the Assembly relating to the holding of meetings cannot be discharged by a committee or sub-committee of the Assembly or by a single member of the Assembly: see s 52(10). As to the functions of the Greater London Authority see PARA 164 et seq post.

3 Ibid s 52(3)(a). The periodic report is the report submitted for the meeting by the Mayor of London under s 45: see PARA 159 post. As to the Mayor of London see PARA 81 ante.

4 For the meaning of 'Assembly member' see PARA 82 note 3 ante.

5 Greater London Authority Act 1999 s 52(3)(b)(i). As to the duty of the Mayor to answer the questions put to him at meetings see PARA 160 post.

6 As to the establishment of the Greater London Authority see PARA 79 ante.

7 Greater London Authority Act 1999 s 52(3)(b)(ii).

8 Ibid s 52(3)(c).

9 Ibid s 45(3).

10 Ibid s 52(2). As to the Chair and Deputy Chair of the Assembly see PARA 84 ante.

The inaugural meeting of the London Assembly was held for this purpose on 12 May 2000. This meeting was held pursuant to standing orders prepared by the head of paid service (ie the person who was, by virtue of his appointment under the Greater London Authority Act 1999 s 407 (see PARA 16 ante), for the time being head of the Greater London Authority's paid service): see the London Government (Various Provisions) Order 2000, SI 2000/942, art 3. Such standing orders were required to provide for: (1) giving notice of the meeting; (2) preparing the agenda for the meeting; (3) electing the Chair and Deputy Chair of the Assembly; (4) declaring the results of those elections; (5) the meeting to be chaired by the head of paid service until the declaration of

those results; and (6) the preparation of minutes of the meeting: see art 3(3). As to the head of the Authority's paid service see PARA 136 ante.

11 le by or under the Greater London Authority Act 1999 s 52 or any other enactment.

12 Ibid s 52(1). As extraordinary meetings see PARA 143 post.

13 Ibid s 53(4). This is subject to ss 50-51 (election, functions and appointment of Chair and Deputy Chair: see PARA 84 ante), s 52 (meetings of the whole Assembly: see the text and notes 1-11 supra; and PARAS 84 ante, 142-143 post), s 53(1), (2) (voting: see PARA 144 post), s 56 (minutes of proceedings: see PARA 145 post), Schs 6-7 (budgetary provisions: see PARAS 234, 236 post), and any other provision made by or under the Greater London Authority Act 1999 or any other Act (whenever passed) which regulates, or provides for the regulation of, the procedure of the Assembly: s 53(5).

14 Ibid s 36(2). As to standing orders of the Authority see PARA 140 ante. Section 36(2) is subject to any other provision of the Greater London Authority Act 1999 or any other enactment which regulates, or provides for the regulation of, the procedure of the Assembly or any procedure to be followed by the Mayor: s 36(6).

## **UPDATE**

### **141 Meetings of the London Assembly**

NOTE 2--There must be at least 21 clear days between a meeting under the Greater London Authority Act 1999 s 52(3) and the last such meeting before it, but this does not apply to the gap between the first such meeting after an ordinary election and the last such meeting before that election: s 52(4A) (added by Local Government Act 2003 Sch 7 para 69(2)).

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/3. THE GREATER LONDON AUTHORITY/(4) MEETINGS AND PROCEDURE/(ii) Meetings/142. Notification of time and place of meetings.

## **142. Notification of time and place of meetings.**

Notice<sup>1</sup> of the time and place of any meeting of the London Assembly<sup>2</sup> must be given to the Mayor of London<sup>3</sup> and the Assembly members<sup>4</sup>, and must be published in accordance with the standing orders of the Greater London Authority<sup>5</sup>. If the meeting is the first of the Assembly's ten statutory annual meetings<sup>6</sup> after an ordinary election<sup>7</sup>, the notice required<sup>8</sup> must be given and published as soon as reasonably practicable after the day of the poll at that election<sup>9</sup>. If the meeting is any other one of those meetings, the notice required must be given and published at least 28 clear days before the meeting<sup>10</sup>.

1 For the meaning of 'notice' see PARA 83 note 10 ante.

2 As to the London Assembly see PARA 82 ante. As to meetings of the Assembly see PARA 141 ante.

3 As to the Mayor of London see PARA 81 ante.

4 For the meaning of 'Assembly members' see PARA 82 note 3 ante.

5 Greater London Authority Act 1999 s 52(5). As to standing orders of the Greater London Authority see PARA 140 ante. As to the establishment of the Greater London Authority see PARA 79 ante.

The functions of the Assembly relating to the holding of meetings cannot be discharged by a committee or sub-committee of the Assembly or by a single member of the Assembly: see s 52(10). As to the functions of the Greater London Authority see PARA 164 et seq post.

6 I.e. a meeting under ibid s 52(3) (see PARA 141 notes 1-8 ante).

7 As to ordinary elections see PARA 89 ante.

8 I.e. required by the Greater London Authority Act 1999 s 52(5) (see the text and notes 1-5 supra).

9 Ibid s 52(6)(a). If notice of a meeting to be held under s 52(3) has been given pursuant to s 52(6), then, until that meeting has been held or the notice has been withdrawn, notice must not be given of another such meeting: s 52(7).

10 Ibid s 52(6)(b). See note 9 supra.

## **UPDATE**

### **142 Notification of time and place of meetings**

NOTE 9--Greater London Authority Act 1999 s 52(7) omitted: Local Government Act 2003 Sch 7 para 69(4).

TEXT AND NOTE 10--In Greater London Authority Act 1999 s 52(6)(b) for '28' read '14': Local Government Act 2003 Sch 7 para 69(3).

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/3. THE GREATER LONDON AUTHORITY/(4) MEETINGS AND PROCEDURE/(ii) Meetings/143. Extraordinary meetings.

### **143. Extraordinary meetings.**

An extraordinary meeting of the London Assembly<sup>1</sup> may be called at any time by the Chair of the Assembly<sup>2</sup>. If the Chair refuses to call an extraordinary meeting after a requisition for that purpose, signed by five Assembly members<sup>3</sup>, has been presented to him, or if, without so refusing, the Chair does not call an extraordinary meeting within seven days after such a requisition has been presented to him, then any five Assembly members may forthwith call an extraordinary meeting<sup>4</sup>.

1 As to the London Assembly see PARA 82 ante.

2 Greater London Authority Act 1999 s 52(8). As to the office of Chair of the Assembly see PARA 84 ante. The functions of the Assembly relating to the holding of meetings cannot be discharged by a committee or sub-committee of the Assembly or by a single member of the Assembly: see s 52(10). As to the functions of the Greater London Authority see PARA 164 et seq post.

3 For the meaning of 'Assembly members' see PARA 82 note 3 ante.

4 Greater London Authority Act 1999 s 52(9).

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/3. THE GREATER LONDON AUTHORITY/(4) MEETINGS AND PROCEDURE/(ii) Meetings/144. Voting at London Assembly meetings.

**144. Voting at London Assembly meetings.**

All questions coming before, or to be decided by, the London Assembly<sup>1</sup>, must be decided by a majority of the members of the Assembly present and voting at a meeting of the Assembly<sup>2</sup>. In the case of an equality of votes, the person chairing the meeting<sup>3</sup> has a second or casting vote<sup>4</sup>.

1 As to the London Assembly see PARA 82 ante.

2 Greater London Authority Act 1999 s 53(1). This is subject to any provision to the contrary contained in the Greater London Authority Act 1999 or any other enactment: s 53(3). As to meetings of the Assembly see PARAS 141-143 ante.

3 As to the person chairing meetings of the Assembly see *ibid* s 50(2); and PARA 84 ante.

4 *Ibid* s 53(2). This is subject to any provision to the contrary contained in the Greater London Authority Act 1999 or any other enactment: s 53(3).

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/3. THE GREATER LONDON AUTHORITY/(4) MEETINGS AND PROCEDURE/(ii) Meetings/145. Minutes of proceedings of London Assembly meetings.

**145. Minutes of proceedings of London Assembly meetings.**

Minutes of the proceedings of a meeting of the London Assembly<sup>1</sup> must be kept in such form as the Assembly may determine<sup>2</sup>. Any such minutes must be signed at the same or next suitable meeting of the Assembly<sup>3</sup> by the person presiding at that meeting<sup>4</sup>. Any minute purporting to be so signed<sup>5</sup> is to be received in evidence without further proof<sup>6</sup>.

1 In the case of a meeting of the London Assembly under the Greater London Authority Act 1999 s 52(3) (ie one of the Assembly's ten statutory annual meetings: see PARA 141 ante), 'minutes' includes the text of any question put pursuant to s 52(3) at the meeting, and the text of the answer given to any such question, whether the question was put, or the answer given, orally or in writing: s 56(5). As to the London Assembly see PARA 82 ante. As to meetings of the Assembly see PARAS 141-143 ante.

2 Ibid s 56(1).

3 For the purposes of ibid s 56(2), the next suitable meeting of the Assembly is its next following meeting or, where standing orders of the Greater London Authority provide for another meeting to be regarded as suitable, either the next following meeting or that other meeting: s 56(4). As to standing orders of the Greater London Authority see PARA 140 ante. As to the establishment of the Greater London Authority see PARA 79 ante.

4 Ibid s 56(2).

5 Ie signed as mentioned in ibid s 56(2) (see the text and notes 3-4 supra).

6 Ibid s 56(3).



Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/3. THE GREATER LONDON AUTHORITY/(4) MEETINGS AND PROCEDURE/(iii) Committee Meetings/146. Voting at committee or sub-committee meetings.

### **(iii) Committee Meetings**

#### **146. Voting at committee or sub-committee meetings.**

All questions coming before, or to be decided by, a committee or sub-committee of the London Assembly<sup>1</sup>, must be decided by a majority of the members of the committee or sub-committee present and voting at a meeting of the committee or sub-committee<sup>2</sup>. In the case of an equality of votes, the person chairing the meeting has a second or casting vote<sup>3</sup>.

1 As to the London Assembly see PARA 82 ante. As to the delegation of functions to, and appointment of, committees and sub-committees see PARA 170 post. As to the appointment of advisory committees see PARA 172 post. As to the functions of the Greater London Authority see PARA 164 et seq post.

2 Greater London Authority Act 1999 ss 53(1), 54(7). This is subject to any provision to the contrary contained in the Greater London Authority Act 1999 or any other enactment (see ss 53(3), 54(7)) and does not apply in relation to any function of the Assembly under s 52 (see s 52(10)). As to meetings of the Assembly see PARAS 141-143 ante.

3 Ibid ss 53(2), 54(7). This is subject to any provision to the contrary contained in the Greater London Authority Act 1999 or any other enactment (see ss 53(3), 54(7)) and does not apply in relation to any function of the Assembly under s 52 (see s 52(10)).

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/3. THE GREATER LONDON AUTHORITY/(4) MEETINGS AND PROCEDURE/(iii) Committee Meetings/147. Minutes of proceedings of committee or sub-committee meetings.

**147. Minutes of proceedings of committee or sub-committee meetings.**

Minutes of the proceedings of a meeting of any committee or sub-committee of the London Assembly<sup>1</sup> must be kept in such form as the Assembly may determine<sup>2</sup>. Any such minutes must be signed at the same or next suitable meeting of the committee or sub-committee<sup>3</sup> by the person presiding at that meeting<sup>4</sup>. Any minute purporting to be so signed<sup>5</sup> must be received in evidence without further proof<sup>6</sup>.

1 As to the London Assembly see PARA 82 ante. As to the appointment and procedure of committees and sub-committees of the Assembly see PARAS 146 ante, 170, 172 post.

2 Greater London Authority Act 1999 s 56(1).

3 For the purposes of *ibid* s 56(2), the next suitable meeting of a committee or sub-committee of the Assembly is its next following meeting or, where standing orders of the Greater London Authority provide for another meeting to be regarded as suitable, either the next following meeting or that other meeting: s 56(4). As to standing orders of the Greater London Authority see PARA 140 ante. As to the establishment of the Greater London Authority see PARA 79 ante.

4 *Ibid* s 56(2).

5 *Ie* signed as mentioned in *ibid* s 56(2) (see the text and notes 3-4 *supra*).

6 *Ibid* s 56(3).

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/3. THE GREATER LONDON AUTHORITY/(4) MEETINGS AND PROCEDURE/(iii) Committee Meetings/148. Political balance of committees.

#### **148. Political balance of committees.**

The provisions of the Local Government and Housing Act 1989 concerned with the maintenance of political balance on committees and other applicable bodies<sup>1</sup> have effect in relation to the London Assembly<sup>2</sup>, so far as relating to the appointment of members of its committees<sup>3</sup>, as if the Assembly were a relevant authority<sup>4</sup> and its ordinary committees<sup>5</sup> and advisory committees<sup>6</sup> were bodies to which the duty to allocate seats to political groups<sup>7</sup> applied<sup>8</sup>. In the case of any committee of the Assembly, the first appointment of members of the committee is an occasion on which the duty to review the representation of political groups on the committee so as to ensure political balance<sup>9</sup> arises in relation to the committee<sup>10</sup>.

1 See the Local Government and Housing Act 1989 ss 15-17, Sch 1 (Sch 1 as amended); and LOCAL GOVERNMENT vol 69 (2009) PARAS 375-377.

2 As to the London Assembly see PARA 82 ante.

3 As to the appointment of members of Assembly committees see PARA 170 post. See also PARA 172 post.

4 For the meaning of 'relevant authority' see the Local Government and Housing Act 1989 Sch 1 para 4(1) (as amended); and LOCAL GOVERNMENT vol 69 (2009) PARA 375.

5 For the meaning of 'ordinary committee' see PARA 170 post.

6 As to advisory committees see PARA 172 post.

7 See the Local Government and Housing Act 1989 s 15; and LOCAL GOVERNMENT vol 69 (2009) PARA 375.

8 See the Greater London Authority Act 1999 s 57(1).

9 Ie the duty imposed by the Local Government and Housing Act 1989 s 15 and the Greater London Authority Act 1999 s 57(1): see the text and notes 1-8 supra; and LOCAL GOVERNMENT vol 69 (2009) PARA 375.

10 Ibid s 57(2).

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/3. THE GREATER LONDON AUTHORITY/(4) MEETINGS AND PROCEDURE/(iv) Power to Require Attendance at Meetings and Production of Documents/149. Power of the London Assembly to require attendance of witnesses and production of documents.

#### **(iv) Power to Require Attendance at Meetings and Production of Documents**

##### **149. Power of the London Assembly to require attendance of witnesses and production of documents.**

The London Assembly<sup>1</sup> may require any of the following persons to attend proceedings<sup>2</sup> of the Assembly for the purpose of giving evidence<sup>3</sup>, or to produce to the Assembly documents<sup>4</sup> in his possession or under his control<sup>5</sup>:

- 203 (1) any person who is a member of staff of the Greater London Authority<sup>6</sup>, or of any functional body, to whom the statutory provisions concerned with the holding of politically restricted posts<sup>7</sup> apply<sup>8</sup>;
- 204 (2) any person who is, or who within the three years prior to the date of the disclosure requirement<sup>9</sup> has been, the chairman of, or a member of, any functional body<sup>10</sup>;
- 205 (3) any person who has within the three years prior to the date of the disclosure requirement<sup>11</sup> had a contractual relationship with the Authority<sup>12</sup> or who is a member of, or a member of staff of, a body which has within that period had such a relationship<sup>13</sup>;
- 206 (4) any person who has within the three years prior to the date of the disclosure requirement<sup>14</sup> received a grant from the Authority<sup>15</sup> or who is a member of, or a member of staff of, a body which has within that period received such a grant<sup>16</sup>;
- 207 (5) any person who is, or who within the three years prior to the date of the disclosure requirement<sup>17</sup> has been, an Assembly member<sup>18</sup>;
- 208 (6) any person who has within the three years prior to the date of the disclosure requirement<sup>19</sup> been the Mayor of London<sup>20</sup>.

However, a person appointed as a political advisor or member of staff of the Assembly or Authority<sup>21</sup> is not required to give any evidence, or produce any documents, which disclose advice given by that person to the Mayor<sup>22</sup> nor is a person who is a member of a functional body, or a member of staff of a functional body, required to give any evidence, or produce any document, which discloses advice given to the Mayor by that person or by that functional body<sup>23</sup>.

1 As to the London Assembly see PARA 82 ante.

2 For the purposes of the Greater London Authority Act 1999 ss 61-65, any reference to proceedings is a reference to proceedings at a meeting of the Assembly: s 61(14)(c). As to meetings of the Assembly see PARAS 141-143 ante.

The provisions of the Local Government Act 1972 Pt VA (ss 100A-100K) (as added and amended) have effect with special modifications so far as relating to any proceedings under s 61(1): see the Greater London Authority Act 1999 s 65; and PARAS 151-158 post.

3 Ibid s 61(1)(a). As to the procedure for requiring attendance see PARA 150 post. A person is not obliged by s 61 to answer any question which he would be entitled to refuse to answer in or for the purposes of proceedings in a court in England and Wales: s 64(3).

The Secretary of State may by order prescribe categories of information which a person who is required under s 61(1)(a) to attend proceedings of the Assembly may refuse to give: s 63(a). In pursuance of this power the Greater London Authority (Protected Information) Order 2000, SI 2000/2060, has been made, prescribing the following categories of 'protected information' (ie information which the Assembly or (as the case may be) the Mayor cannot reasonably ascertain by means other than the exercise of powers under the Greater London Authority Act 1999 s 61, and which is held by or available to a person who is required to produce such information in the capacity in which he is required to attend proceedings or (as the case may be) to produce information: see the Greater London Authority (Protected Information) Order 2000, SI 2000/2060, art 2(3). The categories prescribed are:

- 22 (1) information relating to a relevant employee of a relevant respondent (though this is not to be taken to include information relating to the general responsibilities attaching to particular appointments in the organisation of a relevant respondent) (art 2(1), Schedule Pt 1 para 1);
- 23 (2) information obtained by a relevant respondent from any person, where disclosure of the information would constitute a breach of confidence actionable by that, or another, person (Schedule Pt 1 para 2);
- 24 (3) information (other than information requested from Transport for London in pursuance of the Greater London Authority Act 1999 s 395(1) (see PARA 204 post)) as to advice received, information obtained or action to be taken in connection with any legal proceedings by or against the relevant respondent, or the determination of any matter affecting the relevant respondent, whether, in either case, proceedings have been commenced or are in contemplation (Greater London Authority (Protected Information) Order 2000, SI 2000/2060, art 2(1), Schedule Pt 1 para 3);
- 25 (4) information relating to action taken or to be taken in the course of the prevention, investigation or prosecution of a particular crime, or revealing or tending to reveal techniques or methods of criminal investigation (Schedule Pt 1 para 4);
- 26 (5) information relating to the identity of a person giving the relevant respondent information which tends to show that a criminal offence or a breach of a statutory duty has been, is being or is about to be committed (Schedule Pt 1 para 5);
- 27 (6) information relating to the protection of prominent persons or their residences, national security, or counter-terrorism (Schedule Pt 1 para 6); and
- 28 (7) information relating to the provision of police services for any national or international purpose not mentioned in Schedule Pt 1 para 6 (Schedule Pt 1 para 7).

For these purposes, 'relevant respondent' means a functional body, a person required to attend proceedings of, or produce documents to, the Assembly, or a body of which such a person is a member of staff, or of which he is or has been the chairman or a member: Schedule Pt 2 para (a). In relation to a relevant respondent, 'relevant employee' means a particular employee, former employee or applicant to become an employee of, or a particular office-holder, former office-holder or applicant to become an office-holder of, the relevant respondent; 'employee' means a person employed under a contract of employment; and 'office-holder' includes the holder of any paid office appointments to which are or may be made or confirmed by the relevant respondent, or by any person who holds any such office, or is an employee of the relevant respondent: Schedule Pt 2 para (b). As to the Secretary of State see PARA 12 note 2 ante. As to the making of orders generally see PARA 13 ante. As to the functional bodies see PARAS 213-218 post.

4 For the purposes of the Greater London Authority Act 1999 ss 61-65, 'document' means anything in which information is recorded in any form and references to producing a document are to the production of the information in it in a visible and legible form, including the production of a copy of the document or an extract of the relevant part of the document: s 61(14)(a).

5 Ibid s 61(1)(b). As to the procedure for requiring the production of documents see PARA 150 post. A person is not obliged by s 61 to produce any document which he would be entitled to refuse to produce in or for the purposes of proceedings in a court in England and Wales: s 64(3).

The Secretary of State may by order prescribe categories of documents which a person who is required under s 61(1)(b) to produce documents may refuse to produce: s 63(b). In pursuance of this power the Greater London Authority (Protected Information) Order 2000, SI 2000/2060, has been made, prescribing such documents as would, if produced, disclose information within any category of protected information set out in Schedule Pt 1 (see note 3 supra) as a category of documents for the purposes of the Greater London Authority Act 1999 s 63(b): Greater London Authority (Protected Information) Order 2000, SI 2000/2060, art 2(2).

6 For the meaning of 'member of staff' in relation to the Greater London Authority see PARA 86 note 5 ante. For the purposes of the Greater London Authority Act 1999 ss 61-65, any reference to a member of staff of a

body includes a reference to an officer or employee of that body: s 61(14)(b). As to the establishment of the Greater London Authority see PARA 79 ante.

7    Ie the Local Government and Housing Act 1989 ss 1-3 (as amended): see PARA 138 ante; and LOCAL GOVERNMENT vol 69 (2009) PARAS 120-124.

8    Greater London Authority Act 1999 s 61(2)(a). A requirement imposed under s 61(1) on a person falling within s 61(2), if imposed under s 61(1)(a), is a requirement to attend to give evidence in connection with matters in relation to which statutory functions are exercisable by the Authority or any functional body (s 61(6)(a)) and, if imposed under s 61(1)(b), is a requirement to produce documents which relate to those matters (s 61(6)(b)). 'Statutory functions' are functions conferred or imposed by or under any enactment: s 424(1).

9    Ie the requirement imposed under *ibid* s 61(1) (see the text and notes 1-5 *supra*).

10   *Ibid* s 61(2)(b), (c). See note 8 *supra*.

11   Ie the requirement to be imposed under *ibid* s 61(1) (see the text and notes 1-5 *supra*).

12   *Ibid* s 61(3)(a). A requirement imposed under s 61(1) on a person falling within s 61(3), if imposed under s 61(1)(a), is a requirement to attend to give evidence in connection with the contractual relationship with the Authority (s 61(7)(a)) and, if imposed under s 61(1)(b), is a requirement to produce documents which relate to that contractual relationship (s 61(7)(b)).

13   *Ibid* s 61(3)(b). See note 12 *supra*.

14   Ie the requirement imposed under *ibid* s 61(1) (see the text and notes 1-5 *supra*).

15   *Ibid* s 61(4)(a). A requirement imposed under s 61(1) on a person falling within s 61(4), if imposed under s 61(1)(a), is a requirement to attend to give evidence in connection with the grant received from the Authority (s 61(8)(a)) and, if imposed under s 61(1)(b), is a requirement to produce documents which relate to that grant (s 61(8)(b)).

16   *Ibid* s 61(4)(b). See note 15 *supra*.

17   Ie the requirement imposed under *ibid* s 61(1) (see the text and notes 1-5 *supra*).

18   *Ibid* s 61(5)(a), (b). For the meaning of 'Assembly member' see PARA 82 note 3 ante. A requirement imposed under s 61(1) on a person falling within s 61(5), if imposed under s 61(1)(a), is a requirement to attend to give evidence in connection with the exercise by the person attending of the functions of the Authority (s 61(9)(a)) and, if imposed under s 61(1)(b), is a requirement to produce documents which relate to the exercise of those functions by that person (s 61(9)(b)).

19   Ie the requirement imposed under *ibid* s 61(1) (see the text and notes 1-5 *supra*).

20   *Ibid* s 61(5)(c). As to the Mayor of London see PARA 81 ante. See note 18 *supra*.

21   Ie a person appointed under *ibid* s 67(1) or s 67(2) (see PARAS 133-135 ante).

22   *Ibid* s 61(10).

23   *Ibid* s 61(11). Section 61(11) does not relieve a person from a requirement to give any evidence, or produce any document, which discloses advice given to the Mayor by the Metropolitan Police Authority (see PARA 216 post; and POLICE vol 36(1) (2007 Reissue) PARAS 147-155), or the London Fire and Emergency Planning Authority (see PARA 217 post; and FIRE SERVICES vol 18(2) (Reissue) PARA 17), if or to the extent that the advice in question has been disclosed at a meeting of, or of a committee or sub-committee of, the functional body at a time when the meeting was open to members of the public by virtue of the Local Government Act 1972 Pt VA (as added and amended) (access to meetings and documents: see PARAS 151-158 post), or in a document which has been open to inspection by members of the public by virtue of that Part: Greater London Authority Act 1999 s 61(12), (13).

## UPDATE

### **149 Power of the London Assembly to require attendance of witnesses and production of documents**

TEXT AND NOTE 8--1999 Act s 61(2)(a) amended: Local Government and Public Involvement in Health Act 2007 s 203(3)(a).

TEXT AND NOTE 10--1999 Act s 61(2)(c) amended: Greater London Authority Act 2007 s 5.

TEXT AND NOTES 12, 13--1999 Act s 61(3)(a), (b) amended: Greater London Authority Act 2007 s 5.

TEXT AND NOTES 15, 16--1999 Act s 61(4)(a), (b) amended: Greater London Authority Act 2007 s 5

TEXT AND NOTES 18--1999 Act s 61(5)(a), (b) amended: Greater London Authority Act 2007 s 5

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**150. Procedure for requiring attendance of witnesses and production of documents at London Assembly meetings.**

The powers of the London Assembly<sup>1</sup> to require persons to attend proceedings<sup>2</sup> of the Assembly or to produce documents<sup>3</sup> may be exercised by and for the purposes of an ordinary committee<sup>4</sup> of the Assembly, if the committee is expressly authorised to exercise those powers by the standing orders<sup>5</sup> or by the Assembly, but may not be exercised by any individual Assembly member<sup>6</sup> or by any member of staff of the Greater London Authority<sup>7</sup>.

Except in the case of a committee which is authorised by standing orders to exercise the Assembly's powers to require attendance or production<sup>8</sup>, the statutory provisions enabling the discharge of Assembly functions by committees or single members<sup>9</sup> do not apply in relation to the Assembly's function of deciding to exercise its powers to require attendance or production<sup>10</sup> or to the Assembly's function of authorising<sup>11</sup> a committee to exercise those powers<sup>12</sup>.

In order to impose on a person a requirement to attend or to produce documents<sup>13</sup>, the head of the Authority's paid service<sup>14</sup> must give him notice<sup>15</sup> specifying: (1) the time and place at which he is to attend and the matters about which he is to be required to give evidence<sup>16</sup>; or (2) the documents, or types of documents, which he is to produce, the date by which he is to produce them and the matters to which the document or documents relate<sup>17</sup>. A person to whom such a notice<sup>18</sup> has been given is guilty of an offence<sup>19</sup> if he: (a) refuses or fails, without reasonable excuse, to attend proceedings as required by the notice<sup>20</sup>; (b) refuses to answer any question which is properly put to him when attending any proceedings as required by the notice<sup>21</sup>; (c) refuses or fails, without reasonable excuse, to produce any document required by the notice to be produced by him<sup>22</sup>; or (d) intentionally alters, suppresses, conceals or destroys any document required by the notice to be produced by him<sup>23</sup>.

1 As to the London Assembly see PARA 82 ante.

2 For the meaning of 'proceedings' see PARA 149 note 2 ante.

3 I.e. the powers of the Assembly under the Greater London Authority Act 1999 s 61(1): see PARA 149 ante. For the meaning of 'document' see PARA 149 note 4 ante.

4 For the meaning of 'ordinary committee' see PARA 170 post.

5 As to standing orders see PARA 140 ante.

6 For the meaning of 'Assembly member' see PARA 82 note 3 ante.

7 Greater London Authority Act 1999 s 62(1). For the meaning of 'member of staff' in relation to the Greater London Authority see PARAS 86 note 5, 149 note 6 ante. As to the establishment of the Greater London Authority see PARA 79 ante.

8 I.e. the powers of the Assembly under *ibid* s 61(1): see PARA 149 ante.

9 I.e. *ibid* s 54: see PARAS 144 ante, 170-171 post. As to the functions of the Greater London Authority, and the exercise of them, see PARA 164 et seq post.

10 *Ibid* s 62(2)(a). See note 3 supra.

11 I.e. under *ibid* s 62(1): see the text and notes 1-7 supra.



12 Ibid s 62(2)(b).

13 Ie a requirement under ibid s 61(1): see PARA 149 ante.

14 Ie the person who is, by virtue of his appointment under ibid s 407 (see PARA 16 ante), for the time being head of the paid service. As to the head of the paid service see PARA 136 ante.

15 For the meaning of 'notice' see PARA 83 note 10 ante. Where a requirement under ibid s 61(1) is imposed on a person to attend proceedings or produce documents on behalf of a body, the notice required to be given to him under s 62(3) must also specify that body: s 62(4). A notice required by s 62(3) to be given to a person must be given at least two weeks before the day on which the proceedings are to take place, or by which the documents are to be produced, unless he waives this right: s 62(5). A notice required by s 62(3) to be given to a person is taken to have been given to him if it is sent by registered post or the recorded delivery service, and:

29 (1) if he is a member of staff of the Authority or the chairman of, a member of, or a member of staff of a functional body, it is sent to his normal place of work (s 62(6)(a));

30 (2) if he is a person required to attend proceedings or produce documents on behalf of a body, it is sent to the registered or principal office of the body (s 62(6)(b));

31 (3) if he is any other individual, it is sent to his usual or last known address (s 62(6)(c)); or

32 (4) in the case of any person, where that person has given an address for service of the notice, it is sent to that address (s 62(6)(d)).

For the meaning of 'member of staff' in relation to a functional body see PARA 149 note 6 ante. As to the functional bodies see PARAS 213-218 post.

16 Ibid s 62(3)(a).

17 Ibid s 62(3)(b).

18 Ie a notice under ibid s 62(3): see the text and notes 13-17 supra.

19 A person guilty of an offence under ibid s 64(1) is liable on summary conviction to a fine not exceeding level 5 on the standard scale, or imprisonment for a term not exceeding three months: s 64(2). As to the standard scale see PARA 87 note 6 ante.

20 Ibid s 64(1)(a).

21 Ibid s 64(1)(b). As to the circumstances in which a person may not be obliged to answer certain questions see s 64(3); and PARA 149 note 3 ante.

22 Ibid s 64(1)(c). As to the circumstances in which a person may not be obliged to produce certain documents see s 64(3); and PARA 149 note 5 ante.

23 Ibid s 64(1)(d).

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/3. THE GREATER LONDON AUTHORITY/(4) MEETINGS AND PROCEDURE/(v) Access to Meetings and Documents/151. Admission to meetings of the London Assembly.

## **(v) Access to Meetings and Documents**

### **151. Admission to meetings of the London Assembly.**

A meeting of the London Assembly<sup>1</sup> is open to the public, except to the extent that they are excluded, whether during the whole or part of the proceedings<sup>2</sup>. The public are to be excluded from a meeting during an item of business whenever it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that, if members of the public were present during that item, confidential information<sup>3</sup> would be disclosed to them in breach of the obligation of confidence<sup>4</sup>. The Assembly may by resolution<sup>5</sup> exclude the public from a meeting during an item of business whenever it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the public were present during that item there would be disclosure to them of exempt information<sup>6</sup>.

Public notice of the time and place of the meeting must be given by posting it at the offices of the Assembly<sup>7</sup> three clear days<sup>8</sup> at least before the meeting or, if the meeting is convened at shorter notice, then at the time it is convened<sup>9</sup>.

While the meeting is open to the public, the Assembly does not have power to exclude members of the public from the meeting<sup>10</sup>. Duly accredited representatives of newspapers<sup>11</sup> attending the meeting for the purpose of reporting the proceedings for those newspapers must, so far as practicable, be afforded reasonable facilities for taking their report and, unless the meeting is held in premises not belonging to the Assembly or not on the telephone, for telephoning the report at their own expense<sup>12</sup>. However, the Assembly is not required to permit the taking of photographs of any proceedings, or the use of any means to enable persons not present to see or hear any proceedings, whether at the time or later, or the making of any oral report on any proceedings as they take place<sup>13</sup>.

These provisions are without prejudice to any power of exclusion to suppress or prevent disorderly conduct or other misbehaviour at a meeting<sup>14</sup>.

1 Any reference in the Local Government Act 1972 Pt VA (ss 100A-100K) (as added and amended) (see the text and notes 2-14 *infra*; and PARAS 152-158 *post*) to a meeting is a reference to a meeting held after 1 April 1986: s 100K(2) (ss 100A-100K added by the Local Government (Access to Information) Act 1985 s 1(1)). As to the London Assembly see PARA 82 *ante*. As to the application of the Local Government Act 1972 Pt VA (as added and amended) to other councils and authorities see LOCAL GOVERNMENT vol 69 (2009) PARAS 661-667.

2 See *ibid* s 100A(1) (as added: see note 1 *supra*); Greater London Authority Act 1999 s 58(1)(a). The Local Government Act 1972 s 100A (as added) applies in relation to a committee or sub-committee of the Assembly as it applies in relation to the Assembly: s 100E(1) (as added: see note 1 *supra*); Greater London Authority Act 1999 s 58(1)(b). Any reference in the Local Government Act 1972 Pt VA (as added and amended) to a committee or sub-committee of the Assembly is a reference to a committee which is constituted under the Greater London Authority Act 1999 s 55 (see PARAS 170, 172 *post*): see the Local Government Act 1972 ss 100E(3)(a), 100K(1) (both as added: see note 1 *supra*); Greater London Authority Act 1999 s 58(7).

3 For these purposes, 'confidential information' means: (1) information furnished to the Assembly by a government department upon terms, however expressed, which forbid the disclosure of the information to the public; and (2) information the disclosure of which to the public is prohibited by or under any enactment or by the order of a court: Local Government Act 1972 s 100A(3) (as added: see note 1 *supra*); Greater London Authority Act 1999 s 58(1)(a). In either case, the reference to the obligation of confidence is to be construed accordingly: Local Government Act 1972 s 100A(3) (as so added). 'Information' includes an expression of opinion, any recommendations and any decision taken: s 100K(1) (as added: see note 1 *supra*). Any information furnished to the Greater London Authority and available to the Assembly is to be treated as information

furnished to the Assembly: Greater London Authority Act 1999 s 58(2)(a). As to the protection of confidential information generally see CONFIDENCE AND DATA PROTECTION. As to the establishment of the Greater London Authority see PARA 79 ante.

4 Local Government Act 1972 s 100A(2) (as added: see note 1 supra); Greater London Authority Act 1999 s 58(1)(a). Nothing in the Local Government Act 1972 Pt VA (as added and amended) is to be taken to authorise or require the disclosure of confidential information in breach of the obligation of confidence: s 100A(2) (as so added).

In s 100A(2) (as added) (which requires the exclusion of the public from meetings and makes other provision to prevent disclosure of confidential information in breach of the obligation of confidence) and in s 100D(4) (as added) (which prevents the inclusion in a list of documents of any document which would so disclose such information: see PARA 154 post), any reference to the disclosure (or likelihood of disclosure) of confidential information in breach of the obligation of confidence includes a reference to the disclosure of information of any of the descriptions specified below without the consent of the relevant body concerned: Greater London Authority Act 1999 s 58(3). The descriptions of information specified are:

- 33 (1) any information relating to the financial or business affairs of any particular person which was acquired in consequence of a relationship between that person and a relevant body (s 58(4)(a));
- 34 (2) the amount of any expenditure proposed to be incurred by a relevant body under any particular contract, if and so long as disclosure would be likely to give an advantage to a person entering into, or seeking to enter into, a contract with the relevant body, whether the advantage would arise against the relevant body or another such person (s 58(4)(b));
- 35 (3) any terms proposed or to be proposed by or to a relevant body in the course of negotiations for any particular contract, if and so long as disclosure would prejudice the relevant body in those or any other negotiations concerning the subject matter of the contract (s 58(4)(c)); and
- 36 (4) the identity of any person as the person offering any particular tender for a contract for the supply of goods or services to a relevant body (s 58(4)(d)).

'Relevant body' for these purposes means Transport for London or the London Development Agency: s 58(4). As to Transport for London see PARAS 218, 269 et seq post. As to the London Development Agency see PARA 215 post; and TRADE AND INDUSTRY vol 97 (2010) PARA 988 et seq.

5 A resolution under the Local Government Act 1972 s 100A(4) (as added) must identify the proceedings, or the part of the proceedings, to which it applies and state the description, in terms of s 100A, Sch 12A (both as added and amended) (see PARA 158 post), of the exempt information giving rise to the exclusion of the public: s 100A(5) (as added: see note 1 supra). Where such a resolution is passed, s 100A (as added) does not require the meeting to be open to the public during proceedings to which the resolution applies: s 100A(5) (as so added). As to exempt information see PARA 158 post.

6 Ibid s 100A(4) (as added: see note 1 supra); Greater London Authority Act 1999 s 58(1)(a). The reference in the text to exempt information is a reference to exempt information as defined in the Local Government Act 1972 s 100I (as added) (see PARA 158 post): see s 100A(4) (as so added). See *R v Kensington and Chelsea Royal London Borough Council, ex p Stoop* [1992] 1 PLR 58, sub nom *Stoop v Kensington and Chelsea Royal London Borough Council* [1991] JPL 1129 (planning permission); *R v Wandsworth London Borough Council, ex p Darker Enterprises Ltd* (1999) 1 LGLR 601 (licensing).

7 Any offices of, or belonging to, the Authority are to be treated as also being offices of or belonging to the Assembly: Greater London Authority Act 1999 s 58(2)(b). As to the Authority's accommodation see PARA 139 ante.

8 The Secretary of State may by order amend the Local Government Act 1972 s 100A(6)(a) (as added) so as to substitute for the reference to three clear days such greater number of days as may be specified in the order: s 100K(3) (s 100K as added (see note 1 supra); and s 100K(3), (4) added by the Local Government Act 2000 s 98(1)). Any statutory instrument containing such an order is subject to annulment in pursuance of a resolution of either House of Parliament: Local Government Act 1972 s 100K(4) (as so added). As to the Secretary of State see PARA 12 note 2 ante. At the date at which this volume states the law no order had been made under s 100K (as added and amended).

9 Ibid s 100A(6)(a) (as added: see note 1 supra); Greater London Authority Act 1999 s 58(1)(a). In the case of a committee or sub-committee of the Assembly, the Local Government Act 1972 s 100A(6)(a) (as added) is taken to have been complied with if the notice is given by posting it at the time referred to in the text at the offices of the Assembly and, if the meeting of the committee or sub-committee to which s 100A(6)(a) (as added)

so applies is to be held at premises other than the offices of the Assembly, at those premises: s 100E(2)(a) (as added: see note 1 supra); Greater London Authority Act 1999 s 58(1)(a), (b).

10 Local Government Act 1972 s 100A(6)(b) (as added: see note 1 supra); Greater London Authority Act 1999 s 58(1)(a).

11 For these purposes, 'newspaper' includes: (1) a news agency which systematically carries on the business of selling and supplying reports or information to newspapers; and (2) any organisation which is systematically engaged in collecting news for sound or television broadcasts, or for inclusion in programmes to be included in any programme service, within the meaning of the Broadcasting Act 1990 (see TELECOMMUNICATIONS AND BROADCASTING vol 45(1) (Reissue) PARAS 328, 352), other than a sound or television broadcasting service: Local Government Act 1972 s 100K(1) (as added (see note 1 supra); definition amended by the Broadcasting Act 1990 s 203(1), Sch 20 para 16). As to privileges of the press see PRESS, PRINTING AND PUBLISHING vol 36(2) (Reissue) PARA 458 et seq.

12 Local Government Act 1972 s 100A(6)(c) (as added: see note 1 supra); Greater London Authority Act 1999 s 58(1)(a). In the case of a committee or sub-committee of the Assembly, the premises belonging to the Assembly are treated as belonging to the committee or sub-committee: Local Government Act 1972 s 100E(2) (b) (as added: see note 1 supra); Greater London Authority Act 1999 s 58(1)(a), (b).

13 Local Government Act 1972 s 100A(7) (as added: see note 1 supra); Greater London Authority Act 1999 s 58(1)(a).

14 Local Government Act 1972 s 100A(8) (as added: see note 1 supra); Greater London Authority Act 1999 s 58(1)(a). See *R v Brent Health Authority, ex p Francis* [1985] QB 869, [1985] 1 All ER 74; *R v Brent London Borough, ex p Assegai* (1987) 151 LG Rev 891, (1987) Times, 18 June, DC. As to disturbances at public meetings see also CRIMINAL LAW, EVIDENCE AND PROCEDURE vol 11(1) (2006 Reissue) PARA 584.

## UPDATE

### 151-158 Access to Meetings and Documents

See also Local Government Act 1972 s 100EA (added by Local Government and Public Involvement in Health Act 2007 s 237(1)) (inspection of records relating to functions exercisable by members). In exercise of the powers conferred by the Local Government Act 1972 s 100EA(1), the Exercise of Functions by Local Councillors (Written Records) Regulations 2009, SI 2009/352 has been made.

### 151 Admission to meetings of the London Assembly

TEXT AND NOTE 8--For 'three clear days' read 'five clear days': 1972 Act s 100A(6)(a) (amended by the Local Authorities (Access to Meetings and Documents) (Period of Notice) (England) Order 2002, SI 2002/715).

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/3. THE GREATER LONDON AUTHORITY/(4) MEETINGS AND PROCEDURE/(v) Access to Meetings and Documents/152. Access to agenda and reports.

## **152. Access to agenda and reports.**

Copies of the agenda for a meeting of the London Assembly<sup>1</sup> and copies of any report for the meeting<sup>2</sup> must be open to inspection by members of the public at the offices of the Assembly<sup>3</sup>. However, if the proper officer<sup>4</sup> thinks fit, there may be excluded from such copies of reports the whole of any report which, or any part which, relates only to items during which, in his opinion, the meeting is likely not to be open to the public<sup>5</sup>. Any document which is required to be open to inspection<sup>6</sup> must be open at least three clear days<sup>7</sup> before the meeting<sup>8</sup>, except that: (1) where the meeting is convened at shorter notice, the copies of the agenda and reports must be open to inspection from the time the meeting is convened<sup>9</sup>; and (2) where an item is added to an agenda copies of which are open to inspection by the public, copies of the item, or of the revised agenda, and the copies of any report for the meeting relating to the item, must be open to inspection from the time the item is added to the agenda<sup>10</sup>. However, nothing in these provisions requires copies of any agenda, item or report to be open to inspection by the public until copies are available to members of the Assembly<sup>11</sup>.

An item of business may not be considered at a meeting of the Assembly unless either: (a) a copy of the agenda including the item, or a copy of the item, is open to inspection by members of the public<sup>12</sup> for at least three clear days<sup>13</sup> before the meeting or, where the meeting is convened at shorter notice, from the time the meeting is convened<sup>14</sup>; or (b) by reason of special circumstances, which must be specified in the minutes, the chairman of the meeting is of the opinion that the item should be considered at the meeting as a matter of urgency<sup>15</sup>.

Where a meeting of the Assembly is required<sup>16</sup> to be open to the public during the proceedings or any part of them, there must be made available for the use of members of the public present at the meeting a reasonable number of copies of the agenda and of the reports for the meeting<sup>17</sup>.

There must, on request and on payment of postage or other necessary charge for transmission, be supplied for the benefit of any newspaper<sup>18</sup>: (i) a copy of the agenda for a meeting of the Assembly and a copy of each of the reports for the meeting<sup>19</sup>; (ii) such further statements or particulars, if any, as are necessary to indicate the nature of the items included in the agenda<sup>20</sup>; and (iii) if the proper officer thinks fit in the case of any item, copies of any other documents supplied to members of the Assembly in connection with the item<sup>21</sup>.

1 As to the London Assembly see PARA 82 ante. As to the meaning of 'meeting' see PARA 151 note 1 ante.

2 In the Local Government Act 1972 s 100B (ss 100A-100K added by the Local Government (Access to Information) Act 1985 s 1(1)), as it is applied (by virtue of the Greater London Authority Act 1999 s 58) to any proceedings for the giving of evidence or the production of documents under s 61(1) (see PARA 149 ante), any reference to a report for a meeting includes a reference to any document (other than the agenda) supplied before, and for the purposes of, the evidentiary proceedings: s 65(1), (2). For the meaning of 'document' see PARA 149 note 4 ante. For the meaning of 'proceedings' see PARA 149 note 2 ante.

3 Local Government Act 1972 s 100B(1) (as added: see note 2 supra); Greater London Authority Act 1999 s 58(1)(a). The Local Government Act 1972 s 100B (as added) applies in relation to a committee or sub-committee of the Assembly as it applies in relation to the Assembly: s 100E(1) (as so added); Greater London Authority Act 1999 s 58(1)(b). As to the meaning of 'committee or sub-committee of the Assembly' see PARA 151 note 2 ante. In the case of a committee or sub-committee of the Assembly, the offices of the Assembly are treated as the offices of the committee or sub-committee: Local Government Act 1972 s 100E(2)(c) (as so added); Greater London Authority Act 1999 s 58(1)(a), (b). As to the offices of the Assembly see PARA 151 note 7 ante.

4 The proper officer of the Greater London Authority is to be taken to be the proper officer in relation to the Assembly: *ibid* s 58(2)(c). As to the proper officer of the Authority see PARA 83 note 11 ante. As to the establishment of the Greater London Authority see PARA 79 ante.

5 Local Government Act 1972 s 100B(2) (as added: see note 2 supra); Greater London Authority Act 1999 s 58(1)(a). Where by virtue of the Local Government Act 1972 s 100B(2) (as added) the whole or any part of a report for a meeting is not open to inspection by the public: (1) every copy of the report or of the part must be marked 'Not for publication'; and (2) there must be stated on every copy of the whole or any part of the report the description, in terms of s 100B, Sch 12A (both as added and amended) (see PARA 158 post), of the exempt information by virtue of which the Assembly is likely to exclude the public during the item to which the report relates: s 100B(5) (as added: see note 2 supra); Greater London Authority Act 1999 s 58(1)(a). 'Copy' in relation to any document includes a copy made from a copy: Local Government Act 1972 s 100K(1) (as added: see note 2 supra). As to exempt information see PARA 158 post. As to the meaning of 'information' see PARA 151 note 3 ante.

6 *Ie* by *ibid* s 100B(1) (as added): see the text and notes 1-2 supra.

7 The Secretary of State may by order amend this provision so as to substitute for the reference to three clear days such greater number of days as may be specified in the order: *ibid* s 100K(3) (s 100K as added (see note 2 supra); and s 100K(3) added by the Local Government Act 2000 s 98(1)). Any statutory instrument containing such an order is subject to annulment in pursuance of a resolution of either House of Parliament: Local Government Act 1972 s 100K(4) (as added (see note 2 supra); and amended by the Local Government Act 2000 s 98(1)). As to the Secretary of State see PARA 12 note 2 ante. At the date at which this volume states the law no order had been made under the Local Government Act 1972 s 100K (as added and amended).

8 If a report or relevant document is supplied less than three clear days before proceedings for the giving of evidence or the production of documents under the Greater London Authority Act 1999 s 61(1) (see PARA 149 ante), copies of the report or document must be open to inspection by the public under the Local Government Act 1972 s 100B(1) (as added: see note 2 supra) from the time such copies are available to Assembly members, notwithstanding anything in s 100B(3): Greater London Authority Act 1999 s 65(1), (3). For the meaning of 'Assembly member' see PARA 82 note 3 ante.

The day the agenda is released and the day of the meeting do not count as clear days in the calculation of the notice period: *R v Swansea City Council, ex p Elitestone Ltd* (1993) 66 P & CR 422, [1993] JPL 1019, CA.

9 Local Government Act 1972 s 100B(3)(a) (as added: see note 2 supra); Greater London Authority Act 1999 s 58(1)(a). See also note 8 supra.

10 Local Government Act 1972 s 100B(3)(b) (as added: see note 2 supra); Greater London Authority Act 1999 s 58(1)(a). See also note 8 supra.

11 Local Government Act 1972 s 100B(3) (as added: see note 2 supra); Greater London Authority Act 1999 s 58(1)(a).

12 *Ie* in pursuance of the Local Government Act 1972 s 100B(1) (as added): see the text and notes 1-2 supra.

13 The Secretary of State may by order amend this provisions so as to substitute for the reference to three clear days such greater number of days as may be specified in the order: *ibid* s 100K(3) (as added: see notes 2, 6 supra).

14 *Ibid* s 100B(4)(a) (as added: see note 2 supra); Greater London Authority Act 1999 s 58(1)(a).

15 Local Government Act 1972 s 100B(4)(b) (as added: see note 2 supra); Greater London Authority Act 1999 s 58(1)(a).

16 *Ie* by the Local Government Act 1972 s 100A (as added): see PARA 151 ante.

17 *Ibid* s 100B(6) (as added: see note 2 supra); Greater London Authority Act 1999 s 58(1)(a). The Local Government Act 1972 s 100B(2) (as added) (see the text and notes 4-5 supra) applies in relation to copies of reports provided in pursuance of s 100B(6) (as added) as it applies in relation to copies of reports provided in pursuance of s 100B(1) (as added) (see the text and notes 1-3 supra): s 100B(8) (as added: see note 2 supra); Greater London Authority Act 1999 s 58(1)(a).

18 As to the meaning of 'newspaper' see PARA 151 note 11 ante.

19 Local Government Act 1972 s 100B(7)(a) (as added: see note 2 supra); Greater London Authority Act 1999 s 58(1)(a).

20 Local Government Act 1972 s 100B(7)(b) (as added: see note 2 supra); Greater London Authority Act 1999 s 58(1)(a).

21 Local Government Act 1972 s 100B(7)(c) (as added: see note 2 supra); Greater London Authority Act 1999 s 58(1)(a). The Local Government Act 1972 s 100B(2) (as added) (see the text and notes 4-5 supra) applies in relation to copies of reports provided in pursuance of s 100B(7) (as added) as it applies in relation to copies of reports provided in pursuance of s 100B(1) (as added) (see the text and notes 1-3 supra): s 100B(8) (as added: see note 2 supra); Greater London Authority Act 1999 s 58(1)(a).

## **UPDATE**

### **151-158 Access to Meetings and Documents**

See also Local Government Act 1972 s 100EA (added by Local Government and Public Involvement in Health Act 2007 s 237(1)) (inspection of records relating to functions exercisable by members). In exercise of the powers conferred by the Local Government Act 1972 s 100EA(1), the Exercise of Functions by Local Councillors (Written Records) Regulations 2009, SI 2009/352 has been made.

### **152 Access to agenda and reports**

TEXT AND NOTES 7, 13--For references to 'three clear days' read 'five clear days': 1972 Act s 100B(3), (4)(a) (amended by the Local Authorities (Access to Meetings and Documents) (Period of Notice) (England) Order 2002, SI 2002/715).

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/3. THE GREATER LONDON AUTHORITY/(4) MEETINGS AND PROCEDURE/(v) Access to Meetings and Documents/153. Inspection of minutes and other documents after meetings.

### **153. Inspection of minutes and other documents after meetings.**

After a meeting of the London Assembly<sup>1</sup> the following documents must be open to inspection by members of the public at the offices of the Assembly until the expiration of the period of six years beginning with the date of the meeting<sup>2</sup>: (1) the minutes<sup>3</sup>, or a copy<sup>4</sup> of the minutes, of the meeting, excluding so much of the minutes of proceedings during which the meeting was not open to the public as discloses exempt information<sup>5</sup>; (2) where applicable, a summary<sup>6</sup>; (3) a copy of the agenda for the meeting<sup>7</sup>; and (4) a copy of so much of any report for the meeting as relates to any item during which the meeting was open to the public<sup>8</sup>.

Where in consequence of the exclusion of parts of the minutes which disclose exempt information the document open to inspection<sup>9</sup> does not provide members of the public with a reasonably fair and coherent record of the whole or part of the proceedings, the proper officer<sup>10</sup> must make a written summary of the proceedings, or the part, as the case may be, which provides such a record without disclosing the exempt information<sup>11</sup>.

1 As to the London Assembly see PARA 82 ante. As to the meaning of 'meeting' see PARA 151 note 1 ante.

2 Local Government Act 1972 s 100C(1) (ss 100A-100K added by the Local Government (Access to Information) Act 1985 s 1(1)); Greater London Authority Act 1999 s 58(1)(a). The Local Government Act 1972 s 100C (as added) applies in relation to a committee or sub-committee of the Assembly as it applies in relation to the Assembly: s 100E(1) (as so added); Greater London Authority Act 1999 s 58(1)(b). As to the meaning of 'committee or sub-committee of the Assembly' see PARA 151 note 2 ante. In the case of a committee or sub-committee of the Assembly, the offices of the Assembly are treated as the offices of the committee or sub-committee: Local Government Act 1972 s 100E(2)(c) (as so added); Greater London Authority Act 1999 s 58(1)(a), (b). As to the offices of the Assembly see PARA 151 note 7 ante. As to access to the agenda and connected papers see PARA 152 ante.

3 In the Local Government Act 1972 s 100C (as added), any reference to the minutes of a meeting, in the case of a meeting of the Assembly under the Greater London Authority Act 1999 s 52(3) (see PARA 141 ante), is to be taken to include a reference to: (1) the text of any question put pursuant to s 52(3) at the meeting; and (2) the text of the answer given to any such question, whether the question was put, or the answer given, orally or in writing: s 58(5). In the Local Government Act 1972 s 100C (as added), as it is applied (by virtue of the Greater London Authority Act 1999 s 58) to any proceedings for the giving of evidence or the production of documents under s 61(1) (see PARA 149 ante), any reference to the minutes of a meeting is taken to include a reference to a transcript or other record of evidence given in the course of the proceedings under s 61(1): s 65(1), (4)(a). For the meaning of 'proceedings' see PARA 149 note 2 ante. For the meaning of 'document' see PARA 149 note 4 ante. As to minutes see PARA 145 ante.

4 For the meaning of 'copy' see PARA 152 note 5 ante.

5 Local Government Act 1972 s 100C(1)(a) (as added: see note 2 supra); Greater London Authority Act 1999 s 58(1)(a). As to the exclusion of the public from meetings of the Assembly see PARA 151 ante. As to exempt information see PARA 158 post. As to the meaning of 'information' see PARA 151 note 3 ante.

6 Local Government Act 1972 s 100C(1)(b) (as added: see note 2 supra); Greater London Authority Act 1999 s 58(1)(a). The summary referred to in the text is a summary under the Local Government Act 1972 s 100C(2) (as added): see the text and notes 9-11 infra.

7 Ibid s 100C(1)(c) (as added: see note 2 supra); Greater London Authority Act 1999 s 58(1)(a).

8 Local Government Act 1972 s 100C(1)(d) (as added: see note 2 supra); Greater London Authority Act 1999 s 58(1)(a). In the Local Government Act 1972 s 100C (as added), as it is applied (by virtue of the Greater London Authority Act 1999 s 58) to any proceedings for the giving of evidence or the production of documents under s 61(1) (see PARA 149 ante), any reference to a report for the meeting includes a reference to a relevant document: s 65(1), (4)(b).



9 lie under the Local Government Act 1972 s 100C(1)(a) (as added): see head (1) in the text; and notes 3-5 *supra*.

10 As to the proper officer see PARA 152 note 4 *ante*.

11 Local Government Act 1972 s 100C(2) (as added: see note 2 *supra*); Greater London Authority Act 1999 s 58(1)(a).

## **UPDATE**

### **151-158 Access to Meetings and Documents**

See also Local Government Act 1972 s 100EA (added by Local Government and Public Involvement in Health Act 2007 s 237(1)) (inspection of records relating to functions exercisable by members). In exercise of the powers conferred by the Local Government Act 1972 s 100EA(1), the Exercise of Functions by Local Councillors (Written Records) Regulations 2009, SI 2009/352 has been made.

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/3. THE GREATER LONDON AUTHORITY/(4) MEETINGS AND PROCEDURE/(v) Access to Meetings and Documents/154. Inspection of background papers.

#### **154. Inspection of background papers.**

If and so long as copies<sup>1</sup> of the whole or part of a report for a meeting of the London Assembly<sup>2</sup> are required<sup>3</sup> to be open to inspection by members of the public<sup>4</sup>: (1) those copies must each include a copy of a list compiled by the proper officer<sup>5</sup> of the background papers for the report or the part of the report<sup>6</sup>; and (2) at least one copy of each of the documents included in that list must also be open to inspection at the offices of the Assembly<sup>7</sup>.

Where a copy of any of the background papers for a report is required<sup>8</sup> to be open to inspection by members of the public, the copy is taken for the purposes of Part VA of the Local Government Act 1972<sup>9</sup> to be so open, if arrangements exist for its production to members of the public as soon as is reasonably practicable after the making of a request to inspect the copy<sup>10</sup>.

A document which discloses exempt information<sup>11</sup> is not required to be included in the list of background papers<sup>12</sup>. Nothing in these provisions requires or authorises the inclusion in the list of any document which, if open to inspection by the public, would disclose confidential information in breach of the obligation of confidence<sup>13</sup>.

1 For the meaning of 'copy' see PARA 152 note 5 ante.

2 As to the London Assembly see PARA 82 ante. As to the meaning of 'meeting' see PARA 151 note 1 ante.

3 le by the Local Government Act 1972 s 100B(1) (as added) (see PARA 152 ante) or s 100C(1) (as added) (see PARA 153 ante).

4 Ibid s 100D(1) (ss 100A-100K added by the Local Government (Access to Information) Act 1985 s 1(1); Local Government Act 1972 s 100D(1) substituted by the Local Government Act 2000 s 97(1)); Greater London Authority Act 1999 s 58(1)(a). The Local Government Act 1972 s 100D (as added and amended) applies in relation to a committee or sub-committee of the Assembly as it applies in relation to the Assembly: s 100E(1) (as so added); Greater London Authority Act 1999 s 58(1)(b). As to the meaning of 'committee or sub-committee of the Assembly' see PARA 151 note 2 ante. In the case of a committee or sub-committee of the Assembly, the offices of the Assembly are treated as the offices of the committee or sub-committee: Local Government Act 1972 s 100E(2)(c) (as so added); Greater London Authority Act 1999 s 58(1)(a), (b). As to the offices of the Assembly see PARA 151 note 7 ante.

5 As to the proper officer see PARA 152 note 4 ante.

6 Local Government Act 1972 s 100D(1)(a) (as added and substituted: see note 4 supra); Greater London Authority Act 1999 s 58(1)(a). For these purposes, the background papers for a report are those documents relating to the subject matter of the report which: (1) disclose any facts or matters on which, in the opinion of the proper officer, the report or an important part of the report is based; and (2) have, in his opinion, been relied on to a material extent in preparing the report: Local Government Act 1972 s 100D(5) (as added: see note 4 supra); Greater London Authority Act 1999 s 58(1)(a). However, these do not include any published works: Local Government Act 1972 s 100D(5) (as so added); Greater London Authority Act 1999 s 58(1)(a). As to access to agenda and connected reports see PARA 152 ante. As to the inspection of minutes and other documents after meetings see PARA 153 ante.

In the Local Government Act 1972 s 100D(1)-(4) (as added and substituted: see note 4 supra), as applied (by virtue of the Greater London Authority Act 1999 s 58) to any proceedings for the giving of evidence or the production of documents under s 61(1) (see PARA 149 ante), any reference to background papers for a report (or part of a report) is taken as a reference to any additional documents supplied by a witness: s 65(1), (5). 'Additional documents supplied by a witness' means documents supplied, whether before, during or after the proceedings under s 61(1), by a person attending to give evidence at the proceedings (s 65(6)(a)), and for the use of Assembly members in connection with the proceedings (s 65(6)(b)), but does not include any document which is a relevant document (s 65(6)). For the meaning of 'proceedings' see PARA 149 note 2 ante. For the

meaning of 'document' see PARA 149 note 4 ante. For the meaning of 'Assembly member' see PARA 82 note 3 ante.

7 Local Government Act 1972 s 100D(1)(b) (as added and substituted: see note 4 supra); Greater London Authority Act 1999 s 58(1)(a). However, in the case of the Local Government Act 1972 s 100C(1) (as added) (see PARA 153 ante), these provisions do not require a copy of any document included in the list to be open to inspection after the expiration of the period of four years beginning with the date of the meeting: s 100D(2) (as added (see note 4 supra); and amended by the Local Government Act 2000 ss 97(2), 107, Sch 6); Greater London Authority Act 1999 s 58(1)(a).

8 le required by the Local Government Act 1972 s 100D(1) (as added and substituted): see the text and notes 1-7 supra.

9 le ibid Pt VA (ss 100A-100K) (as added and amended).

10 Ibid s 100D(3) (as added: see note 4 supra); Greater London Authority Act 1999 s 58(1)(a).

11 As to exempt information see PARA 158 post. As to the meaning of 'information' see PARA 151 note 3 ante.

12 Local Government Act 1972 s 100D(4)(a) (as added: see note 4 supra); Greater London Authority Act 1999 s 58(1)(a). Nothing in the Local Government Act 1972 s 100D (as added and amended) requires or authorises the inclusion in any such list as is referred to in s 100D(1) (as added and amended) of any document which discloses anything which, by virtue of the Greater London Authority Act 1999 s 45(6), is not required to be disclosed under s 45(3), (4) (see PARAS 141 ante, 160 post): s 58(6).

13 Local Government Act 1972 s 100D(4)(b) (as added: see note 4 supra). As to the obligation of confidence see s 100A(2) (as added); and PARA 151 ante.

## **UPDATE**

### **151-158 Access to Meetings and Documents**

See also Local Government Act 1972 s 100EA (added by Local Government and Public Involvement in Health Act 2007 s 237(1)) (inspection of records relating to functions exercisable by members). In exercise of the powers conferred by the Local Government Act 1972 s 100EA(1), the Exercise of Functions by Local Councillors (Written Records) Regulations 2009, SI 2009/352 has been made.

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/3. THE GREATER LONDON AUTHORITY/(4) MEETINGS AND PROCEDURE/(v) Access to Meetings and Documents/155. Additional rights of access to documents for members of the London Assembly.

### **155. Additional rights of access to documents for members of the London Assembly.**

Any document which is in the possession or under the control of the London Assembly<sup>1</sup> and contains material relating to any business to be transacted at a meeting<sup>2</sup> of the Assembly or a committee or sub-committee<sup>3</sup> of the Assembly must be open to inspection by any member of the Assembly<sup>4</sup>. However, where it appears to the proper officer<sup>5</sup> that a document discloses certain exempt information<sup>6</sup>, these provisions do not require the document to be open to inspection<sup>7</sup>. The rights conferred by the provisions described above on a member of the Assembly are in addition to any other rights he may have<sup>8</sup>.

1 As to the London Assembly see PARA 82 ante. For these purposes, any document which is in the possession or under the control of the Greater London Authority and which is available to the Assembly is to be treated as a document which is in the possession or under the control of the Assembly: Greater London Authority Act 1999 s 58(8). As to the establishment of the Greater London Authority see PARA 79 ante.

2 As to the meaning of 'meeting' see PARA 151 note 1 ante. As to the admission of the public to meetings of the Assembly see PARA 151 ante.

3 As to the meaning of 'committee or sub-committee of the Assembly' see PARA 151 note 2 ante.

4 Local Government Act 1972 s 100F(1) (ss 100A-100K added by the Local Government (Access to Information) Act 1985 s 1(1)); Greater London Authority Act 1999 s 58(1)(a). As to access to documents see PARAS 152-154 ante. As to the members of the Assembly see PARA 81 et seq ante.

5 As to the proper officer see PARA 152 note 4 ante.

6 The information of a description for the time being falling within any of the provisions of the Local Government Act 1972 s 100F, Sch 12A Pt I paras 1-6, 9, 11, 12 and 14 (as added and amended): see PARA 158 post. As to exempt information generally see PARA 158 post. As to the meaning of 'information' see PARA 151 note 3 ante.

7 Ibid s 100F(2) (as added: see note 4 supra); Greater London Authority Act 1999 s 58(1)(a). The Secretary of State may by order amend the Local Government Act 1972 s 100F(2) (as added) by adding to the descriptions of exempt information to which s 100F(2) (as added) refers for the time being, or by removing any description of exempt information to which it refers for the time being: s 100F(3) (as so added). Any statutory instrument containing an order under s 100F(3) (as added) is subject to annulment in pursuance of a resolution of either House of Parliament: s 100F(4) (as so added). As to the Secretary of State see PARA 12 note 2 ante. At the date at which this volume states the law no order had been made under s 100F (as added).

The provisions of s 100F(2)-(4) (as added), as applied (by virtue of the Greater London Authority Act 1999 s 58) to any proceedings for the giving of evidence or the production of documents under s 61(1) (see PARA 149 post), do not have effect in relation to documents which contain material relating to any business to be transacted at the proceedings under s 61(1): s 65(1), (7). For the meaning of 'document' see PARA 149 note 4 ante. For the meaning of 'proceedings' see PARA 149 note 2 ante.

8 Local Government Act 1972 s 100F(5) (as added: see note 4 supra); Greater London Authority Act 1999 s 58(1)(a).

## **UPDATE**

### **151-158 Access to Meetings and Documents**

See also Local Government Act 1972 s 100EA (added by Local Government and Public Involvement in Health Act 2007 s 237(1)) (inspection of records relating to functions

exercisable by members). In exercise of the powers conferred by the Local Government Act 1972 s 100EA(1), the Exercise of Functions by Local Councillors (Written Records) Regulations 2009, SI 2009/352 has been made.

**155 Additional rights of access to documents for members of the London Assembly**

TEXT AND NOTES 5-7--1972 Act s 100F amended: see LOCAL GOVERNMENT vol 69 (2009) PARA 666.

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### **156. London Assembly to maintain information concerning rights of access.**

There must be kept at the offices of the London Assembly<sup>1</sup> a written summary of the rights:

- 209 (1) to attend meetings of the Assembly and of committees and sub-committees of the Assembly<sup>2</sup>; and
- 210 (2) to inspect and copy<sup>3</sup> documents and to be furnished with documents<sup>4</sup>,

which are for the time being conferred by Part VA<sup>5</sup> and Part XI<sup>6</sup> of the Local Government Act 1972 and such other enactments as the Secretary of State by order specifies<sup>7</sup>. The summary must be open to inspection by the public at the offices of the Assembly<sup>8</sup>.

1 As to the London Assembly see PARA 82 ante. As to the offices of the Assembly see PARA 151 note 7 ante.

2 Local Government Act 1972 s 100G(3)(a) (s 100G added by the Local Government (Access to Information) Act 1985 s 1(1)); Greater London Authority Act 1999 s 58(1)(a), (b). As to admission of the public to meetings of the Assembly see PARA 151 ante. As to the meaning of 'committee or sub-committee of the Assembly' see PARA 151 note 2 ante. As to committees and sub-committees see PARAS 146-148 ante, 170-172 post.

3 For the meaning of 'copy' see PARA 152 note 5 ante.

4 Local Government Act 1972 s 100G(3)(b) (as added: see note 2 supra); Greater London Authority Act 1999 s 58(1)(a). As to access to documents see PARAS 152-155 ante.

5 Ie the Local Government Act 1972 Pt VA (ss 100A-100K) (as added and amended).

6 Ie ibid Pt XI (ss 222-224A) (as amended): see LOCAL GOVERNMENT vol 69 (2009) PARAS 536, 573.

7 Ibid s 100G(3) (as added: see note 2 supra); Greater London Authority Act 1999 s 58(1)(a). The Local Government (Inspection of Documents) (Summary of Rights) Order 1986, SI 1986/854, has been made under the Local Government Act 1972 s 100G(3) (as added). As to the Secretary of State see PARA 12 note 2 ante.

8 Ibid s 100G(4) (as added: see note 2 supra); Greater London Authority Act 1999 s 58(1)(a). See also PARA 157 post.

## **UPDATE**

### **151-158 Access to Meetings and Documents**

See also Local Government Act 1972 s 100EA (added by Local Government and Public Involvement in Health Act 2007 s 237(1)) (inspection of records relating to functions exercisable by members). In exercise of the powers conferred by the Local Government Act 1972 s 100EA(1), the Exercise of Functions by Local Councillors (Written Records) Regulations 2009, SI 2009/352 has been made.

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/3. THE GREATER LONDON AUTHORITY/(4) MEETINGS AND PROCEDURE/(v) Access to Meetings and Documents/157. Inspection of documents generally.

### **157. Inspection of documents generally.**

A document directed<sup>1</sup> to be open to inspection must be so open at all reasonable hours<sup>2</sup>: (1) in the case of background documents<sup>3</sup>, upon payment of such reasonable fee as may be required for the facility<sup>4</sup>; and (2) in any other case, without payment<sup>5</sup>.

Where a document is open to inspection by a person<sup>6</sup>, he may, upon payment of such reasonable fee as may be required for the facility, make copies<sup>7</sup> of or extracts from the document<sup>8</sup>, or require the person having custody of the document to supply to him a photographic copy of or extracts from the document<sup>9</sup>. However, this does not require or authorise the doing of any act which infringes the copyright in any work except that, where the owner of the copyright is the London Assembly or the Greater London Authority<sup>10</sup>, nothing done in pursuance of these provisions<sup>11</sup> constitutes an infringement of the copyright<sup>12</sup>.

A person having the custody of a document which is required to be open to inspection by the public<sup>13</sup> is guilty of an offence<sup>14</sup> if he, without reasonable excuse<sup>15</sup>: (a) intentionally obstructs any person exercising a right<sup>16</sup> to inspect, or to make a copy of or extracts from, the document<sup>17</sup>; or (b) refuses to furnish copies to any person entitled<sup>18</sup> to obtain them<sup>19</sup>.

Where any accessible document<sup>20</sup> for any meeting of the Assembly or for any meeting of a committee or sub-committee of the Assembly<sup>21</sup> is supplied to, or open to inspection by, a member of the public<sup>22</sup>, or is supplied<sup>23</sup> for the benefit of any newspaper<sup>24</sup>, the publication thereby of any defamatory matter<sup>25</sup> contained in the document is privileged<sup>26</sup> unless the publication is proved to be made with malice<sup>27</sup>.

The rights under Part VA of the Local Government Act 1972 to inspect, copy and be furnished with documents are in addition, and without prejudice, to any such rights conferred by or under any other enactment<sup>28</sup>.

1    Ie by any provision of the Local Government Act 1972 Pt VA (ss 100A-100K) (as added and amended).

2    Ibid s 100H(1) (ss 100A-100K added by the Local Government (Access to Information) Act 1985 s 1(1)); Greater London Authority Act 1999 s 58(1)(a). As to access to documents see PARAS 152-155 ante.

3    Ie documents open to inspection under the Local Government Act 1972 s 100D(1) (as added and substituted): see PARA 154 ante.

4    Ibid s 100H(1)(a) (as added: see note 2 supra); Greater London Authority Act 1999 s 58(1)(a).

5    Local Government Act 1972 s 100H(1)(b) (as added: see note 2 supra); Greater London Authority Act 1999 s 58(1)(a).

6    Ie under any provision of the Local Government Act 1972 Pt VA (as added and amended).

7    For the meaning of 'copy' see PARA 152 note 5 ante.

8    Local Government Act 1972 s 100H(2)(a) (as added: see note 2 supra); Greater London Authority Act 1999 s 58(1)(a).

9    Local Government Act 1972 s 100H(2)(b) (as added: see note 2 supra); Greater London Authority Act 1999 s 58(1)(a).

10   As to the London Assembly see PARA 82 ante. As to the establishment of the Greater London Authority see PARA 79 ante.

- 11    Ie the Local Government Act 1972 s 100H(2) (as added): see the text and notes 6-9 supra.
- 12    Ibid s 100H(3) (as added: see note 2 supra); Greater London Authority Act 1999 s 58(1)(a), (10).
- 13    Ie under the Local Government Act 1972 s 100B(1) (as added) (see PARA 152 ante) or s 100C(1) (as added) (see PARA 153 ante).
- 14    A person guilty of such an offence is liable on summary conviction to a fine not exceeding level 1 on the standard scale: ibid s 100H(4) (as added: see note 2 supra); Greater London Authority Act 1999 s 58(1)(a). As to the standard scale see PARA 87 note 6 ante.
- 15    Local Government Act 1972 s 100H(4) (as added: see note 2 supra); Greater London Authority Act 1999 s 58(1)(a).
- 16    Ie a right conferred by the Local Government Act 1972 Pt VA (as added and amended).
- 17    Ibid s 100H(4)(a) (as added: see note 2 supra); Greater London Authority Act 1999 s 58(1)(a).
- 18    Ie under any provision of the Local Government Act 1972 Pt VA (as added and amended).
- 19    Ibid s 100H(4)(b) (as added: see note 2 supra); Greater London Authority Act 1999 s 58(1)(a).
- 20    For the purposes of the Local Government Act 1972 s 100H(5) (as added), the 'accessible documents' for a meeting are:
  - 37    (1)   any copy of the agenda or of any item included in the agenda for the meeting (s 100H(6)(a) (as added: see note 2 supra); Greater London Authority Act 1999 s 58(1)(a));
  - 38    (2)   any such further statements or particulars for the purpose of indicating the nature of any item included in the agenda as are mentioned in the Local Government Act 1972 s 100B(7)(b) (as added) (see PARA 152 ante) (s 100H(6)(b) (as added: see note 2 supra); Greater London Authority Act 1999 s 58(1)(a));
  - 39    (3)   any copy of a document relating to such an item which is supplied for the benefit of a newspaper in pursuance of the Local Government Act 1972 s 100B(7)(c) (as added) (see PARA 152 ante) (s 100H(6)(c) (as added: see note 2 supra); Greater London Authority Act 1999 s 58(1)(a));
  - 40    (4)   any copy of the whole or part of a report for the meeting (Local Government Act 1972 s 100H(6)(d) (as added: see note 2 supra); Greater London Authority Act 1999 s 58(1)(a));
  - 41    (5)   any copy of the whole or part of any background papers for a report for the meeting, within the meaning of the Local Government Act 1972 s 100D (as added) (see PARA 154 ante) (s 100H(6)(e) (as added: see note 2 supra); Greater London Authority Act 1999 s 58(1)(a)).

As to the meaning of 'meeting' see PARA 151 note 1 ante. As to the meaning of 'newspaper' see PARA 151 note 11 ante.

In the Local Government Act 1972 s 100H(6)(d) (as added), as it is applied (by virtue of the Greater London Authority Act 1999 s 58) to any proceedings for the giving of evidence or the production of documents under s 61(1) (see PARA 149 ante), the reference to a report for the meeting includes a reference to a relevant document: s 65(1), (8)(a). In the Local Government Act 1972 s 100H(6)(e) (as added), as it is so applied, the reference to background papers for a report for a meeting is to be taken as a reference to any additional documents supplied by a witness: Greater London Authority Act 1999 s 65(1), (8)(b). 'Additional documents supplied by a witness' means documents supplied, whether before, during or after the proceedings under s 61(1), by a person attending to give evidence at the proceedings (s 65(6)(a)), and for the use of Assembly members in connection with the proceedings (s 65(6)(b)), but does not include any document which is a relevant document (s 65(6)). For the meaning of 'document' see PARA 149 note 4 ante. For the meaning of 'proceedings' see PARA 149 note 2 ante. For the meaning of 'Assembly member' see PARA 82 note 3 ante.

As to the admission of the public to meetings of the Assembly see PARA 151 ante.

- 21    See the Local Government Act 1972 s 100H(5), (6) (as added: see note 2 supra); and the Greater London Authority Act 1999 s 58(1)(a), (b).
- 22    Local Government Act 1972 s 100H(5)(a) (as added: see note 2 supra); Greater London Authority Act 1999 s 58(1)(a), (b).



- 23 le in pursuance of the Local Government Act 1972 s 100B(7) (as added): see PARA 152 ante.
- 24 Ibid s 100H(5)(b) (as added: see note 2 supra); Greater London Authority Act 1999 s 58(1)(a), (b).
- 25 As to the law of defamation generally see LIBEL AND SLANDER.
- 26 As to privilege see LIBEL AND SLANDER vol 28 (Reissue) PARA 94 et seq.
- 27 Local Government Act 1972 s 100H(5) (as added: see note 2 supra); Greater London Authority Act 1999 s 58(1)(a), (b).
- 28 Local Government Act 1972 s 100H(6) (as added: see note 2 supra); Greater London Authority Act 1999 s 58(1)(a), (b).

## **UPDATE**

### **151-158 Access to Meetings and Documents**

See also Local Government Act 1972 s 100EA (added by Local Government and Public Involvement in Health Act 2007 s 237(1)) (inspection of records relating to functions exercisable by members). In exercise of the powers conferred by the Local Government Act 1972 s 100EA(1), the Exercise of Functions by Local Councillors (Written Records) Regulations 2009, SI 2009/352 has been made.

### **157 Inspection of documents generally**

TEXT AND NOTES 13-19--Local Government Act 1972 s 100H(4) amended: Local Government and Public Involvement in Health Act 2007 s 237(2).

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### 158. Exempt information.

The following descriptions of information<sup>1</sup> are exempt from the provisions relating to the admission of the public to meetings and access to documents<sup>2</sup>:

- 211 (1) information relating to a particular employee<sup>3</sup>, former employee or applicant to become an employee of, or a particular office-holder, former office-holder or applicant to become an office-holder under, the authority<sup>4</sup>;
- 212 (2) information relating to a particular employee, former employee or applicant to become an employee of, or a particular officer, former officer or applicant to become an officer appointed by a magistrates' court committee, a probation committee within the meaning of the Probation Services Act 1993 or a local probation board within the meaning of the Criminal Justice and Court Services Act 2000<sup>5</sup>;
- 213 (3) information relating to a particular chief officer, former chief officer or applicant to become a chief officer of a local probation board within the meaning of the Criminal Justice and Court Services Act 2000<sup>6</sup>;
- 214 (4) information relating to any particular occupier or former occupier of, or applicant for, accommodation provided by or at the expense of the authority<sup>7</sup>;
- 215 (5) information relating to any particular applicant for, or recipient or former recipient of, any service provided by the authority<sup>8</sup>;
- 216 (6) information relating to any particular applicant for, or recipient or former recipient of, any financial assistance provided by the authority<sup>9</sup>;
- 217 (7) information relating to the adoption, care, fostering or education of any particular child<sup>10</sup>;
- 218 (8) information relating to the financial or business affairs<sup>11</sup> of any particular person, other than the authority<sup>12</sup>;
- 219 (9) the amount of any expenditure proposed to be incurred by the authority under any particular contract for the acquisition of property or the supply of goods or services<sup>13</sup>;
- 220 (10) any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract for the acquisition or disposal<sup>14</sup> of property or the supply of goods or services<sup>15</sup>;
- 221 (11) the identity of the authority (as well as of any other person, by virtue of head (8) above) as the person offering any particular tender for a contract<sup>16</sup> for the supply of goods or services<sup>17</sup>;
- 222 (12) information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter<sup>18</sup> arising between the authority or a Minister of the Crown and employees of, or office-holders under, the authority<sup>19</sup>;
- 223 (13) any instructions to counsel and any opinion of counsel, whether or not in connection with any proceedings, and any advice received, information obtained or action to be taken in connection with any legal proceedings by or against the authority, or the determination of any matter affecting the authority, whether, in either case, proceedings have been commenced or are in contemplation<sup>20</sup>;
- 224 (14) information which, if disclosed to the public, would reveal that the authority proposes to give under any enactment a notice under or by virtue of which

- requirements are imposed on a person, or to make an order or direction under any enactment<sup>21</sup>;
- 225 (15) any action taken or to be taken in connection with the prevention, investigation or prosecution of crime<sup>22</sup>; and
- 226 (16) the identity of a protected informant<sup>23</sup>.

The Secretary of State<sup>24</sup> may by order vary the descriptions of exempt information<sup>25</sup>.

1 As to the meaning of 'information' see PARA 151 note 3 ante.

2 See the Local Government Act 1972 ss 100I(1), 100K(1) (ss 100A-100K added by the Local Government (Access to Information) Act 1985 s 1(1)); Greater London Authority Act 1999 s 58(1)(a). The provisions referred to in the text are those of the Local Government Act 1972 Pt VA (ss 100A-100K) (as added and amended).

Information falling within heads (1)-(16) in the text is not exempt information if it relates to proposed development for which a local planning authority can grant itself planning permission pursuant to the Town and Country Planning General Regulations 1992, SI 1992/1492, reg 3 (see TOWN AND COUNTRY PLANNING vol 46(2) (Reissue) PARA 893); Local Government Act 1972 Sch 12A Pt II para 7 (Sch 12A added by the Local Government (Access to Information) Act 1985 s 1(2), Sch 1 Pt I; and the Local Government Act 1972 Sch 12A Pt II para 7 added by the Local Government (Access to Information) (Variation) Order 1992, SI 1992/1497, reg 2); Greater London Authority Act 1999 s 58(1)(a). Information relating to a person of a description specified in heads (1)-(6) in the text is not exempt information unless it relates to an individual of that description in the capacity indicated by the description: Local Government Act 1972 Sch 12A Pt II para 1 (as so added); Greater London Authority Act 1999 s 58(1)(a).

3 'Employee' means a person employed under a contract of service: *ibid* s 100I, Sch 12A Pt III para 1(1) (as added: see note 2 supra); Greater London Authority Act 1999 s 58(1)(a).

4 Local Government Act 1972 Sch 12A Pt I para 1 (as added: see note 2 supra); Greater London Authority Act 1999 s 58(1)(a).

For these purposes, any reference in the Local Government Act 1972 Sch 12A (as added and amended) to the 'authority' is a reference to the London Assembly or, as the case may be, the committee or sub-committee in relation to whose proceedings or documents the question whether information is exempt or not falls to be determined: see Sch 12A Pt III para 1(2) (as added: see note 2 supra); Greater London Authority Act 1999 s 58(1)(a), (b). In the application of the Local Government Act 1972 Sch 12A (as added and amended) to the Assembly, any reference to the 'authority' includes a reference to the Greater London Authority: Greater London Authority Act 1999 s 58(11). As to the establishment of the Greater London Authority see PARA 79 ante. As to the London Assembly see PARA 82 ante. As to the meaning of 'committee or sub-committee of the Assembly' see PARA 151 note 2 ante.

'Office-holder', in relation to the authority, means the holder of any paid office, appointments to which are or may be made or confirmed by the authority or by any joint board on which the authority is represented or by any person who holds any such office or is an employee of the authority: Local Government Act 1972 Sch 12A Pt III para 1(1) (as added: see note 2 supra); Greater London Authority Act 1999 s 58(1)(a).

5 Local Government Act 1972 Sch 12A Pt I para 2 (Sch 12A as added (see note 2 supra); and Sch 12A Pt I para 2 amended by the Probation Service Act 1993 s 32, Sch 3 para 4; the Access to Justice Act 1999 s 106, Sch 15 Pt V Table (5); and the Criminal Justice and Court Services Act 2000 ss 74, 75, Sch 7 Pt II para 46, Sch 8); Greater London Authority Act 1999 s 58(1)(a). See also note 2 supra. As to magistrates' court committees see MAGISTRATES. As to the National Probation Service see CRIMINAL LAW, EVIDENCE AND PROCEDURE vol 11(4) (2006 Reissue) PARA 1833 et seq.

6 Local Government Act 1972 Sch 12A Pt I para 2A (Sch 12A as added (see note 2 supra); and Sch 12A Pt I para 2A added by the Criminal Justice and Court Services Act 2000 Sch 7 Pt II para 46); Greater London Authority Act 1999 s 58(1)(a). See also note 2 supra.

7 Local Government Act 1972 Sch 12A Pt I para 3 (as added: see note 2 supra); Greater London Authority Act 1999 s 58(1)(a). See also note 2 supra.

8 Local Government Act 1972 Sch 12A Pt I para 4 (as added: see note 2 supra); Greater London Authority Act 1999 s 58(1)(a). See also note 2 supra.

9 Local Government Act 1972 Sch 12A Pt I para 5 (as added: see note 2 supra); Greater London Authority Act 1999 s 58(1)(a). See also note 2 supra.

10 Local Government Act 1972 Sch 12A Pt I para 6 (as added: see note 2 supra); Greater London Authority Act 1999 s 58(1)(a). See also note 2 supra. 'Child' means: (1) a person under the age of 18 years; and (2) any person who has attained that age and (a) is registered as a pupil at a school; or (b) is the subject of a care order, within the meaning of the Children Act 1989 s 31 (as amended) (see CHILDREN AND YOUNG PERSONS vol 5(3) (2008 Reissue) PARA 271); Local Government Act 1972 Sch 12A Pt III para 1(1) (as added (see note 2 supra); definition amended by the Children Act 1989 s 108(5), Sch 13 para 31(2)); Greater London Authority Act 1999 s 58(1)(a).

11 'Financial or business affairs' includes contemplated, as well as past or current, activities: Local Government Act 1972 Sch 12A Pt III para 1(1) (as added: see note 2 supra); Greater London Authority Act 1999 s 58(1)(a).

12 Local Government Act 1972 Sch 12A Pt I para 7 (as added: see note 2 supra); Greater London Authority Act 1999 s 58(1)(a). See also note 2 supra. Information falling within head (8) in the text is not exempt information by virtue of that head if it is required to be registered under: (1) the Companies Act 1985 (see COMPANIES); (2) the Friendly Societies Act 1974 (see FINANCIAL SERVICES AND INSTITUTIONS vol 50 (2008) PARA 2081 et seq); (3) the Industrial and Provident Societies Acts 1965 to 1978 (see FINANCIAL SERVICES AND INSTITUTIONS vol 50 (2008) PARA 2394 et seq); (4) the Building Societies Act 1986 (see FINANCIAL SERVICES AND INSTITUTIONS vol 50 (2008) PARA 1856); or (5) the Charities Act 1960 (see CHARITIES): Local Government Act 1972 Sch 12A Pt II para 2 (as added (see note 2 supra); and amended by the Building Societies Act 1986 s 120, Sch 18 Pt I para 9(a)); Greater London Authority Act 1999 s 58(1)(a).

'Registered', in relation to information required to be registered under the Building Societies Act 1986 (see FINANCIAL SERVICES AND INSTITUTIONS vol 50 (2008) PARA 1856 et seq), means recorded in the public file of any building society within the meaning of that Act: Local Government Act 1972 Sch 12A Pt III para 1(1) (as added (see note 2 supra); definition amended by the Building Societies Act 1986 Sch 18 Pt I para 9(b)); Greater London Authority Act 1999 s 58(1)(a).

13 Local Government Act 1972 Sch 12A Pt I para 8 (as added: see note 2 supra); Greater London Authority Act 1999 s 58(1)(a). See also note 2 supra. Information falling within head (9) in the text is exempt information if and so long as disclosure to the public of the amount there referred to would be likely to give an advantage to a person entering into, or seeking to enter into, a contract with the authority in respect of the property, goods or services, whether the advantage would arise as against the authority or as against other such persons: Local Government Act 1972 Sch 12A Pt II para 3 (as so added); Greater London Authority Act 1999 s 58(1)(a).

14 'Disposal', in relation to property, includes the granting of an interest in or right over it: Local Government Act 1972 Sch 12A Pt III para 1(1) (as added: see note 2 supra); Greater London Authority Act 1999 s 58(1)(a).

15 Local Government Act 1972 Sch 12A Pt I para 9 (as added: see note 2 supra); Greater London Authority Act 1999 s 58(1)(a). See also note 2 supra. Information falling within head (10) in the text is exempt information if and so long as disclosure to the public of the terms would prejudice the authority in those or any other negotiations concerning the property or goods or services: Local Government Act 1972 Sch 12A Pt II para 4 (as added: see note 2 supra); Greater London Authority Act 1999 s 58(1)(a).

16 'Tender for a contract' includes a written statement prepared by the authority in pursuance of the Local Government, Planning and Land Act 1980 s 9(2) (repealed): Local Government Act 1972 Sch 12A Pt III para 1(1) (as added: see note 2 supra); Greater London Authority Act 1999 s 58(1)(a).

17 Local Government Act 1972 Sch 12A Pt I para 10 (as added: see note 2 supra); Greater London Authority Act 1999 s 58(1)(a). See also note 2 supra.

18 'Labour relations matter' means: (1) any of the matters specified in the Trade Union and Labour Relations Act 1974 s 29(1)(a)-(g) (repealed: see now the Trade Union and Labour Relations (Consolidation) Act 1992 s 178(1), (2); and EMPLOYMENT vol 41 (2009) PARA 1042); or (2) any dispute about a matter falling within head (1) supra: Local Government Act 1972 Sch 12A Pt III para 1(1) (as added: see note 2 supra); Greater London Authority Act 1999 s 58(1)(a). For the purposes of this definition the enactments mentioned in head (1) supra, with the necessary modifications, apply in relation to office-holders under the authority as they apply in relation to employees of the authority: Local Government Act 1972 Sch 12A Pt III para 1(1) (as so added); Greater London Authority Act 1999 s 58(1)(a).

19 Local Government Act 1972 Sch 12A Pt I para 11 (as added: see note 2 supra); Greater London Authority Act 1999 s 58(1)(a). See also note 2 supra. Information falling within head (12) in the text is exempt information if and so long as disclosure to the public of the information would prejudice the authority in those or any other consultations or negotiations in connection with a labour relations matter arising as mentioned in that head: Local Government Act 1972 Sch 12A Pt II para 5 (as so added); Greater London Authority Act 1999 s 58(1)(a).

20 Local Government Act 1972 Sch 12A Pt I para 12 (as added: see note 2 supra); Greater London Authority Act 1999 s 58(1)(a). See also note 2 supra.

21 Local Government Act 1972 Sch 12A Pt I para 13 (as added: see note 2 supra); Greater London Authority Act 1999 s 58(1)(a). See also note 2 supra. Information falling within head (14) is exempt information if and so long as disclosure to the public might afford an opportunity to a person affected by the notice, order or direction to defeat the purpose or one of the purposes for which the notice, order or direction is to be given or made: Local Government Act 1972 Sch 12A Pt II para 6 (as so added); Greater London Authority Act 1999 s 58(1)(a).

22 Local Government Act 1972 Sch 12A Pt I para 14 (as added: see note 2 supra); Greater London Authority Act 1999 s 58(1)(a). See also note 2 supra.

23 Local Government Act 1972 Sch 12A Pt I para 15 (as added: see note 2 supra); Greater London Authority Act 1999 s 58(1)(a). See also note 2 supra.

'Protected informant' means a person giving the authority information which tends to show that a criminal offence, a breach of statutory duty, a breach of planning control as defined in the Town and Country Planning Act 1990 s 171A (as added) (see TOWN AND COUNTRY PLANNING vol 46(2) (Reissue) PARA 551) or a nuisance has been, is being or is about to be committed: Local Government Act 1972 Sch 12A Pt III para 1(1) (as added (see note 2 supra); definition amended by the Planning (Consequential Provisions) Act 1990 s 4, Sch 2 para 28(4); and the Planning and Compensation Act 1991 s 32, Sch 7 para 2); Greater London Authority Act 1999 s 58(1)(a).

24 As to the Secretary of State see PARA 12 note 2 ante.

25 Local Government Act 1972 s 100I(2) (as added: see note 2 supra); Greater London Authority Act 1999 s 58(1)(a). The Local Government Act 1972 Sch 12A (as added and amended) may be varied by adding to it any description or other provision or by deleting from it or varying any description or other provision for the time being specified or contained in it: s 100I(2) (as so added); Greater London Authority Act 1999 s 58(1)(a). The Secretary of State may exercise the power conferred by the Local Government Act 1972 s 100I(2) (as added) by amending any Part of Sch 12A (as added and amended), with or without amendment of any other Part: s 100I(3) (as so added); Greater London Authority Act 1999 s 58(1)(a). Any statutory instrument containing an order under the Local Government Act 1972 s 100I (as added) is subject to annulment in pursuance of a resolution of either House of Parliament: s 100I(4) (as so added); Greater London Authority Act 1999 s 58(1)(a). As to the orders made under the Local Government Act 1972 s 100I(2) (as added) see the Local Government (Access to Information) (Variation) Order 1992, SI 1992/1497, which added the Local Government Act 1972 Sch 2 Pt II para 7 (see note 2 supra).

## **UPDATE**

### **151-158 Access to Meetings and Documents**

See also Local Government Act 1972 s 100EA (added by Local Government and Public Involvement in Health Act 2007 s 237(1)) (inspection of records relating to functions exercisable by members). In exercise of the powers conferred by the Local Government Act 1972 s 100EA(1), the Exercise of Functions by Local Councillors (Written Records) Regulations 2009, SI 2009/352 has been made.

### **158 Exempt information**

TEXT AND NOTES--1972 Act s 100I amended, Sch 12A substituted: Local Government (Access to Information) (Variation) Order 2006, SI 2006/88. The 1972 Act Sch 12A now provides a simplified list of descriptions of exempt information and qualifies the information so described by reference to a public interest test.

NOTE 13--1972 Act Sch 12A para 8 amended: SI 2007/2194.

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## **(vi) Duties of the Mayor of London with regard to Meetings**

### **159. Duty to submit periodic report to the London Assembly.**

The Mayor of London<sup>1</sup> must submit a written report to the London Assembly<sup>2</sup> not later than three clear working days<sup>3</sup> before each meeting of the Assembly<sup>4</sup>. The report must relate to the period since the submission of the previous report<sup>5</sup> and must include:

- 227 (1) notification of decisions taken by the Mayor which he considers to be of significance<sup>6</sup>;
- 228 (2) the reasons for which the Mayor took those decisions<sup>7</sup>; and
- 229 (3) the response of the Mayor to proposals submitted by the Assembly<sup>8</sup>.

1 As to the Mayor of London see PARA 81 ante.

2 As to the London Assembly see PARA 82 ante.

3 A day is a working day unless it is: a Saturday, a Sunday, Christmas Eve, Christmas Day, Maundy Thursday, Good Friday, a day which is a bank holiday in England under the Banking and Financial Dealings Act 1971, or a day appointed for public thanksgiving or mourning: Greater London Authority Act 1999 s 45(10). See TIME.

4 Ibid s 45(1). The meetings of the Assembly referred to in the text are those held pursuant to s 52(3): see PARA 141 ante.

5 Ibid s 45(2). The first such report related to the period since the first ordinary election (which was held on 4 May 2000: see s 3(1); and PARA 89 ante): see s 45(2). As to ordinary elections see PARA 89 ante.

6 Ibid s 45(2)(a).

7 Ibid s 45(2)(b).

8 Ibid s 45(2)(c). The proposals referred to are the proposals submitted under s 60 (see PARA 149 ante).

## **UPDATE**

### **159 Duty to submit periodic report to the London Assembly**

TEXT AND NOTE 3--Now, for 'three' read 'five': 1999 Act s 45(1) (amended by the Greater London Authority Act 2007 s 3).

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### **160. Duty to answer questions at London Assembly meetings.**

The Mayor of London<sup>1</sup> must attend every meeting of the London Assembly<sup>2</sup> and must answer questions put to him at any such meeting by Assembly members<sup>3</sup> about matters in relation to which statutory functions<sup>4</sup> are exercisable by him<sup>5</sup>. The Mayor must, so far as reasonably practicable, answer any such question orally at the meeting at which it is put<sup>6</sup>, or, if for any reason it is not reasonably practicable to do that, provide a written answer before the end of the third working day following the day on which the question was asked at the meeting<sup>7</sup>. The duty of the Mayor to answer questions<sup>8</sup> does not require him to disclose advice received by him from his political advisors or other members of staff of the Greater London Authority<sup>9</sup>, a functional body<sup>10</sup>, a member of a functional body<sup>11</sup>, or a member of staff of a functional body<sup>12</sup>.

1 As to the Mayor of London see PARA 81 ante.

2 Ie every meeting held pursuant to the Greater London Authority Act 1999 s 52(3): see PARA 141 ante. As to the London Assembly see PARA 82 ante.

3 For the meaning of 'Assembly members' see PARA 82 note 3 ante.

4 For the meaning of 'statutory functions' see PARA 149 note 8 ante. As to the functions of the Greater London Authority see PARA 164 et seq post.

5 Greater London Authority Act 1999 s 45(3).

6 Ibid s 45(4)(a).

7 Ibid s 45(4)(b). For these purposes the day on which a question is asked at a meeting is: (1) in the case of an oral question, the day on which the question is first asked at the meeting (s 45(5)(a)); or (2) in the case of a written question, the day on which the question is first raised at the meeting (s 45(5)(b)).

8 Ie under ibid s 45(3) or s 45(4): see the text and notes 1-7 supra.

9 Ibid s 45(3), (4), (6)(a). The persons referred to in the text are persons appointed under s 67(1) or s 67(2): see PARAS 133-135 ante. As to the establishment of the Greater London Authority see PARA 79 ante.

10 Ibid s 45(3), (4), (6)(b). As to the functional bodies see PARAS 213-218 post. Where the Mayor receives advice from the Metropolitan Police Authority or the London Fire and Emergency Planning Authority, or from a member or a member of staff of one of those bodies, the Mayor is not relieved by s 45(6) from any requirement to disclose the advice if or to the extent that the advice has been disclosed: (1) at a meeting of, or of a committee or sub-committee of, the functional body concerned at a time when the meeting was open to members of the public by virtue of the Local Government Act 1972 Pt VA (ss 100A-100K) (as added and amended) (access to meetings and documents: see PARAS 151-158 ante); or (2) in a document which has been open to inspection by members of the public by virtue of Pt VA (as added and amended): Greater London Authority Act 1999 s 45(7), (8) (s 45(8) amended by the Greater London Authority (Miscellaneous Amendments) Order 2000, SI 2000/1435, art 2, Schedule paras 1, 4). For the purposes of the Greater London Authority Act 1999 s 45 (as amended), a reference to a member of staff of a functional body includes a reference to an officer or employee of that body: s 45(9). As to the Metropolitan Police Authority see PARA 216 post; and POLICE vol 36(1) (2007 Reissue) PARAS 147-155. As to the London Fire and Emergency Planning Authority see PARA 217 post; and FIRE SERVICES vol 18(2) (Reissue) PARA 17.

11 Ibid s 45(3), (4), (6)(c). See note 10 supra.

12 Ibid s 45(3), (4), (6)(d). See note 10 supra.

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# **161. Duty to submit annual report.**

As soon as practicable after the end of each financial year<sup>1</sup> the Mayor of London<sup>2</sup> must prepare a report on the exercise by him of statutory functions<sup>3</sup> during the year<sup>4</sup>. This report must include:

- 230 (1) an assessment of the Mayor's progress in implementing the strategies required to be prepared and published by him<sup>5</sup>;
- 231 (2) a statement of any targets for the time being in force<sup>6</sup> with respect to the implementation of those strategies and an assessment of the progress made by authorities involved in the implementation of those strategies towards achieving those targets<sup>7</sup>;
- 232 (3) a summary of information which relates to the Greater London Authority's<sup>8</sup> performance of its statutory functions and which the Authority is required to publish under or by virtue of any enactment<sup>9</sup>; and
- 233 (4) information of such descriptions as the London Assembly<sup>10</sup>, prior to the beginning of the financial year to which the annual report relates, has notified to the Mayor that it wishes to be included in the annual report<sup>11</sup>.

As soon as practicable after preparing the report, the Mayor must send a copy of the report to the Assembly<sup>12</sup>, and must publish the report<sup>13</sup>.

1 For the meaning of 'financial year' see PARA 131 note 21 ante.

2 As to the Mayor of London see PARA 81 ante.

3 For the meaning of 'statutory functions' see PARA 149 note 8 ante. As to the functions of the Greater London Authority see PARA 164 et seq post.

4 Greater London Authority Act 1999 s 46(1).

5 Ibid s 46(2)(a). The strategies referred to are those required to be prepared and published by the Mayor under the Greater London Authority Act 1999 (see PARA 177 et seq post) or under the Regional Development Agencies Act 1998 s 7A(2) (as added) (see TRADE AND INDUSTRY vol 97 (2010) PARA 989). As to the transport strategy see PARAS 197, 262-268 post; as to the spatial development strategy see PARAS 189-195 post; as to the London Development Agency strategy see PARA 196 post; as to the London Biodiversity Action Plan see PARA 181 post; as to the municipal waste management strategy see PARAS 182-184 post; as to the London air quality strategy see PARA 185 post; as to the London ambient noise strategy see PARA 186 post; and as to the culture strategy see PARA 198 post.

6 Ibid under the Greater London Authority Act 1999 s 41(9) (see PARA 177 post).

7 Ibid s 46(2)(b).

8 As to the establishment of the Greater London Authority see PARA 79 ante.

9 Greater London Authority Act 1999 s 46(2)(c).

10 As to the London Assembly see PARA 82 ante.

11 Greater London Authority Act 1999 s 46(2)(d).



12 Ibid s 46(3)(a). A copy of the annual report sent to the Assembly must be kept available by the Mayor, for the period of six years beginning with the date of publication of that report pursuant to s 46 (s 46(7)), for inspection by any person on request free of charge at the principal offices of the Authority at reasonable hours (s 46(5)). A copy of the annual report sent to the Assembly, or any part of that report, must be supplied to any person on request during that period for such reasonable fee as the Mayor may determine: s 46(6).

13 Ibid s 46(3)(b). The annual report must not be published until after the Mayor has sent a copy to the Assembly (see the text and note 12 *supra*): s 46(4).

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## **(vii) State of London Debate and People's Question Time**

### **162. The annual State of London debate.**

The Mayor of London<sup>1</sup> must once in every financial year<sup>2</sup> hold and attend a meeting, known as a 'State of London debate', which is open to all members of the public<sup>3</sup>. The form of, and procedure for, a State of London debate is such as the Mayor may determine after consultation with the London Assembly<sup>4</sup>, but must be such that there is an opportunity for members of the public to speak<sup>5</sup>. The power to determine the form of, and procedure for, a State of London debate includes power to appoint any person, whether or not he has any connection with the Greater London Authority<sup>6</sup>, to preside<sup>7</sup>. A member of the public who attends or speaks at a State of London debate does so subject to and in accordance with the procedure for the State of London debate<sup>8</sup>.

1 As to the Mayor of London see PARA 81 ante.

2 For the meaning of 'financial year' see PARA 131 note 21 ante.

3 Greater London Authority Act 1999 s 47(1). A State of London debate is required to be held on a date to be determined by the Mayor during April, May or June in each successive period of 12 months beginning with 1 April 2001 (s 47(6)(a)), at least seven days after the publication under s 46 (see PARA 161 ante) of the annual report relating to the financial year last ended (s 47(6)(b)). At least one month prior to the date on which the debate is to be held, the Mayor must determine the place at which the meeting is to be held (s 47(7)(a)) and must take such steps as will in his opinion give adequate notice of the date and place of the meeting to members of the public (s 47(7)(b)). For the meaning of 'notice' see PARA 83 note 10 ante.

4 As to the London Assembly see PARA 82 ante.

5 Greater London Authority Act 1999 s 47(2).

6 As to the establishment of the Greater London Authority see PARA 79 ante.

7 Greater London Authority Act 1999 s 47(3), (4).

8 Ibid s 47(5).

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### **163. People's Question Time.**

The purpose of a People's Question Time, which is a meeting which the Mayor of London<sup>1</sup> and the London Assembly<sup>2</sup> are required to hold and attend twice in every financial year<sup>3</sup>, is to afford an opportunity to members of the public to put questions to the Mayor and Assembly members<sup>4</sup> and to enable the Mayor and Assembly members to respond<sup>5</sup>. A People's Question Time must be open to all members of the public<sup>6</sup>. The form of, and procedure for, a People's Question Time is such as the Mayor may determine after consultation with the Assembly<sup>7</sup>. The power to determine the form of, and procedure for, a People's Question Time includes power to appoint any person, whether or not he has any connection with the Greater London Authority<sup>8</sup>, to preside<sup>9</sup>. A member of the public who attends or speaks at a People's Question Time does so subject to and in accordance with the procedure for the People's Question Time<sup>10</sup>.

1 As to the Mayor of London see PARA 81 ante.

2 As to the London Assembly see PARA 82 ante.

3 Greater London Authority Act 1999 s 48(1). For the meaning of 'financial year' see PARA 131 note 21 ante.

4 For the meaning of 'Assembly members' see PARA 82 note 3 ante.

5 Greater London Authority Act 1999 s 48(2).

6 Ibid s 48(1). A People's Question Time must be held on a date to be determined by the Mayor, after consultation with the Assembly, but which is not less than one month before, or one month after, a State of London debate held pursuant to s 47(1) (see PARA 162 ante): s 48(7). At least one month prior to the date on which each People's Question Time is to be held, the Mayor must determine the place at which the meeting is to be held: s 48(8)(a). He must take such steps as will in his opinion give adequate notice of the date and place of the meeting to members of the public: s 48(8)(b).

7 Ibid s 48(3).

8 As to the establishment of the Greater London Authority see PARA 79 ante.

9 Greater London Authority Act 1999 s 48(4), (5).

10 Ibid s 48(6).

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## **(5) FUNCTIONS AND POWERS**

### **(i) The Exercise of Functions**

#### **164. Exercise of functions conferred on the Greater London Authority.**

Functions transferred to, or conferred or imposed on, the Greater London Authority<sup>1</sup> are, in accordance with the provisions of the Greater London Authority Act 1999, exercisable in one of three ways, that is:

- 234 (1) only by the Mayor of London<sup>2</sup> acting on behalf of the Authority<sup>3</sup>;
- 235 (2) only by the London Assembly<sup>4</sup> acting on behalf of the Authority<sup>5</sup>; or
- 236 (3) only by the Mayor and Assembly jointly acting on behalf of the Authority<sup>6</sup>.

Any reference in the Greater London Authority Act 1999 to functions of the Authority, the Mayor, the Assembly, or the Mayor and Assembly, is to be construed accordingly<sup>7</sup>.

Any function which is transferred to, or conferred or imposed on, the Authority<sup>8</sup>, and which is not otherwise made exercisable<sup>9</sup> on behalf of the Authority by the Mayor, by the Assembly, or by the Mayor and the Assembly acting jointly<sup>10</sup>, is exercisable only by the Mayor acting on behalf of the Authority<sup>11</sup>. Any reference in the Greater London Authority Act 1999 to functions of the Authority, the Mayor, the Assembly, or the Mayor and Assembly, is to be construed accordingly<sup>12</sup>.

The Authority, acting by the Mayor, by the Assembly, or by both jointly, may do anything (including the acquisition or disposal of any property or rights) which is calculated to facilitate, or is conducive or incidental to, the exercise of any functions of the Authority exercisable by the Mayor or, as the case may be, by the Assembly or by both acting jointly<sup>13</sup>. However, the Authority must not<sup>14</sup> raise money (whether by precepts, borrowing or otherwise) or lend money, except in accordance with the enactments relating to those matters<sup>15</sup>.

1 As to the establishment of the Greater London Authority see PARA 79 ante. The functions referred to in the text are functions transferred to, or conferred or imposed on, the Authority by or under the Greater London Authority Act 1999 or any other Act (whenever passed). As to the principal purposes and functions of the Greater London Authority see PARA 175 et seq post.

2 As to the Mayor of London see PARA 81 ante.

3 Greater London Authority Act 1999 s 35(1)(a). As to the functions of the Authority exercisable only by the Mayor see PARA 165 post.

Section 35(1)-(7) is subject to any express provision to the contrary in the Greater London Authority Act 1999: s 35(8). Section 35 is also subject to the Deregulation and Contracting Out Act 1994 Pt II (ss 69-79) (as amended) (see LOCAL GOVERNMENT vol 69 (2009) PARAS 407-410): Greater London Authority Act 1999 s 35(10).

4 As to the London Assembly see PARA 82 ante.

5 Greater London Authority Act 1999 s 35(1)(b). As to functions of the Authority exercisable only by the Assembly see PARA 166 post.

6 Ibid s 35(1)(c). As to functions of the Authority exercisable only by the Mayor and the Assembly acting jointly see PARA 167 post.

7 Ibid s 35(7).

8 Ibid s 35(2)(a). The functions referred to in the text are functions transferred to, or conferred or imposed on, the Authority by or under the Greater London Authority Act 1999 or any other Act (whenever passed).

9 Ie apart from under ibid s 35(2).

10 Ibid s 35(2)(b).

11 Ibid s 35(2). Section 35(2) is without prejudice to ss 38, 380, Sch 4 (Sch 4 as amended) (see PARAS 116, 123-126 ante, 168, 203 post), which are concerned with the delegation of functions: s 35(9) (amended by the Greater London Authority (Miscellaneous Amendments) Order 2000, SI 2000/1435, art 2, Schedule, PARA 3).

12 Greater London Authority Act 1999 s 35(7).

13 Ibid s 34(1).

14 Ie by virtue of ibid s 34.

15 Ibid s 34(2).

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**165. Functions of the Greater London Authority exercisable only by the Mayor of London.**

Any function transferred to, or conferred or imposed on, the Mayor of London<sup>1</sup> is taken to be a function of the Greater London Authority<sup>2</sup> exercisable only by the Mayor acting on behalf of the Authority<sup>3</sup>. Any reference in the Greater London Authority Act 1999 to functions of the Authority or the Mayor is to be construed accordingly<sup>4</sup>.

The Authority, acting by the Mayor, by the London Assembly<sup>5</sup>, or by both jointly, may do anything (including the acquisition or disposal of any property or rights) which is calculated to facilitate, or is conducive or incidental to, the exercise of any functions of the Authority exercisable by the Mayor<sup>6</sup>. However, the Authority must not<sup>7</sup> raise money (whether by precepts, borrowing or otherwise) or lend money, except in accordance with the enactments relating to those matters<sup>8</sup>.

1 As to the Mayor of London see PARA 81 ante. The functions referred to in the text are functions transferred to, or conferred or imposed on, the Mayor by or under the Greater London Authority Act 1999 or any other Act (whenever passed). As to the principal purposes and functions of the Greater London Authority see PARA 175 et seq post.

2 As to the establishment of the Greater London Authority see PARA 79 ante.

3 Greater London Authority Act 1999 s 35(3). Section 35(1)-(7) is subject to any express provision to the contrary in the Greater London Authority Act 1999: s 35(8). Section 35 is also subject to the Deregulation and Contracting Out Act 1994 Pt II (ss 69-79) (as amended) (see LOCAL GOVERNMENT vol 69 (2009) PARAS 407-410): Greater London Authority Act 1999 s 35(10).

Section 35(3) is without prejudice to ss 38, 380, Sch 4 (Sch 4 as amended) (see PARAS 116, 123-130 ante, 168, 203 post), which are concerned with the delegation of functions (s 35(9) (amended by the Greater London Authority (Miscellaneous Amendments) Order 2000, SI 2000/1435, art 2, Schedule, PARA 3)), and is subject to the Greater London Authority Act 1999 s 35(5) (exercise of functions conferred jointly on the Mayor and the Assembly: see PARA 167 post) (s 35(6)). As to the delegation of mayoral functions see PARA 168 post.

4 Ibid s 35(7)(a), (b). See note 3 supra.

5 As to the London Assembly see PARA 82 ante.

6 Greater London Assembly Act 1999 s 34(1).

7 Ie by virtue of ibid s 34.

8 Ibid s 34(2). As to the finances of the Authority see PARA 232 et seq post.

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**166. Functions of the Greater London Authority exercisable only by the London Assembly.**

Any function transferred to, or conferred or imposed on, the London Assembly<sup>1</sup> is taken to be a function of the Greater London Authority<sup>2</sup> exercisable only by the Assembly acting on behalf of the Authority<sup>3</sup>. Any reference in the Greater London Authority Act 1999 to functions of the Authority or the Assembly is to be construed accordingly<sup>4</sup>.

The Authority, acting by the Mayor of London<sup>5</sup>, by the Assembly, or by both jointly, may do anything (including the acquisition or disposal of any property or rights) which is calculated to facilitate, or is conducive or incidental to, the exercise of any functions of the Authority exercisable by the Assembly<sup>6</sup>. However, the Authority must not<sup>7</sup> raise money (whether by precepts, borrowing or otherwise) or lend money, except in accordance with the enactments relating to those matters<sup>8</sup>.

1 As to the London Assembly see PARA 82 ante. The functions referred to in the text are functions transferred to, or conferred or imposed on, the Assembly by or under the Greater London Authority Act 1999 or any other Act (whenever passed). As to the principal purposes and functions of the Greater London Authority see PARA 175 et seq post.

2 As to the establishment of the Greater London Authority see PARA 79 ante.

3 Greater London Authority Act 1999 s 35(4). Section 35(1)-(7) is subject to any express provision to the contrary in the Greater London Authority Act 1999: s 35(8). Section 35 is also subject to the Deregulation and Contracting Out Act 1994 Pt II (ss 69-79) (as amended) (see LOCAL GOVERNMENT vol 69 (2009) PARAS 407-410): Greater London Authority Act 1999 s 35(10). Section 35(4) is subject to s 35(5) (exercise of functions conferred jointly on the Mayor and the Assembly: see PARA 167 post): s 35(6).

4 Ibid s 35(7)(a), (c). See note 3 supra.

5 As to the Mayor of London see PARA 81 ante.

6 Greater London Authority Act 1999 s 34(1).

7 Ie by virtue of ibid s 34.

8 Ibid s 34(2).

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**167. Functions of the Greater London Authority exercisable only by the Mayor of London and the London Assembly acting jointly.**

Any function transferred to, or conferred or imposed on, the Mayor of London<sup>1</sup> and the London Assembly<sup>2</sup> is taken to be a function of the Greater London Authority<sup>3</sup> exercisable only by the Mayor and the Assembly acting jointly on behalf of the Authority<sup>4</sup>. Any reference in the Greater London Authority Act 1999 to functions of the Authority or the Mayor and Assembly is to be construed accordingly<sup>5</sup>.

The Authority, acting by the Mayor, by the Assembly, or by both jointly, may do anything (including the acquisition or disposal of any property or rights) which is calculated to facilitate, or is conducive or incidental to, the exercise of any functions of the Authority exercisable by the Mayor and Assembly acting jointly<sup>6</sup>. However, the Authority must not<sup>7</sup> raise money (whether by precepts, borrowing or otherwise) or lend money, except in accordance with the enactments relating to those matters<sup>8</sup>.

1 As to the Mayor of London see PARA 81 ante.

2 As to the London Assembly see PARA 82 ante. The functions referred to in the text are functions transferred to, or conferred or imposed on, the Mayor and the Assembly by or under the Greater London Authority Act 1999 or any other Act (whenever passed). As to the principal purposes and functions of the Greater London Authority see PARA 175 et seq post.

3 As to the establishment of the Greater London Authority see PARA 79 ante.

4 Greater London Authority Act 1999 s 35(5). Section 35(1)-(7) is subject to any express provision to the contrary in the Greater London Authority Act 1999: s 35(8). Section 35 is also subject to the Deregulation and Contracting Out Act 1994 Pt II (ss 69-79) (as amended) (see LOCAL GOVERNMENT vol 69 (2009) PARAS 407-410): Greater London Authority Act 1999 s 35(10).

5 Ibid s 35(7). See note 4 supra.

6 Ibid s 34(1).

7 Ie by virtue of ibid s 34.

8 Ibid s 34(2).



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### **168. Delegation of functions exercisable by the Mayor of London.**

Any function<sup>1</sup> exercisable on behalf of the Greater London Authority<sup>2</sup> by the Mayor of London<sup>3</sup> is also exercisable on behalf of the Authority, if or to the extent that the Mayor so authorises<sup>4</sup> (whether generally or specially), and subject to any conditions imposed by the Mayor, by<sup>5</sup>:

- 237 (1) the Deputy Mayor<sup>6</sup>;
- 238 (2) any member of staff of the Authority<sup>7</sup>;
- 239 (3) Transport for London<sup>8</sup>;
- 240 (4) the London Development Agency<sup>9</sup>;
- 241 (5) the Common Council of the City of London<sup>10</sup>;
- 242 (6) any local authority<sup>11</sup>.

1 The Greater London Authority Act 1999 s 38(1) does not apply in relation to: (1) any functions under s 38 (s 38(6)(a)); (2) any function of making appointments under s 67(1) (see PARAS 133-134 ante) (s 38(6)(b)); or (3) any function under Pt X (ss 375-386) (culture, media and sport: see PARAS 198-203, 221-224 post) in relation to which provision for delegation is made under that Part (s 38(6)(c)). As to the principal purposes and functions of the Greater London Authority see PARA 175 et seq post.

2 As to the establishment of the Greater London Authority see PARA 79 ante.

3 As to the Mayor of London see PARA 81 ante.

4 An authorisation under the Greater London Authority Act 1999 s 38 may be varied or revoked at any time by the Mayor (s 38(9)), although in the case of the Common Council of the City of London (see head (5) in the text; and note 10 infra) or a local authority (see head (6) in the text; and note 11 infra), an authorisation may only be granted or varied with its written consent, and ceases to have effect if notice of the withdrawal of that consent is given to the Mayor (s 38(3)). Any authorisation, and any variation or revocation of such an authorisation, must be in writing: s 38(10). As to the Common Council of the City of London see PARA 51 et seq ante. For the meaning of 'local authority' see PARA 17 note 9 ante. For the meaning of 'notice' see PARA 83 note 10 ante.

Where, by virtue of an authorisation under s 38(1), a duty is exercisable by any of the bodies or persons specified in s 38(2) (see the text and notes 6-11 infra), that body or person must discharge the duty in accordance with the authorisation and any conditions imposed by the Mayor under s 38(1): s 38(4). This is without prejudice to the exercise by the body or person concerned of any power to arrange for the discharge of functions by a committee or sub-committee, or a member, officer or employee, of the body or person, or a joint committee on which the body or person is represented, except to the extent that the terms of the authorisation or any conditions imposed by the Mayor under s 38(1) otherwise provide: s 38(5).

The provisions of the Local Government Act 1972 s 101(3), (4) (delegation of functions to committees, officers etc, and continued exercise by local authority concerned: see LOCAL GOVERNMENT vol 69 (2009) PARA 370) apply in relation to any authorisation under the Greater London Authority Act 1999 s 38(1) given by the Mayor to a local authority, Transport for London or the London Development Agency as they apply to arrangements under the Local Government Act 1972 s 101 (as amended) between one local authority and another: Greater London Authority Act 1999 s 38(8). As to Transport for London see PARAS 218, 269 et seq post. As to the London Development Agency see PARA 215 post; TRADE AND INDUSTRY vol 97 (2010) PARA 988 et seq.

5 Ibid s 38(1).

6 Ibid s 38(2)(a). As to the Deputy Mayor see PARA 83 ante.

7 Ibid s 38(2)(b). For the meaning of 'member of staff' see PARA 86 note 5 ante.

8 Ibid s 38(2)(c). Transport for London has the power to exercise functions on behalf of the Authority in accordance with s 38, whether or not it has power to do so apart from s 38(7) and irrespective of the nature of the function: s 38(7)(a).

9 Ibid s 38(2)(d). The London Development Agency has the power to exercise functions on behalf of the Authority in accordance with s 38, whether or not it has power to do so apart from s 38(7) and irrespective of the nature of the function: s 38(7)(b).

10 Ibid s 38(2)(e). The Common Council of the City of London has the power to exercise functions on behalf of the Authority in accordance with s 38, whether or not it has power to do so apart from s 38(7) and irrespective of the nature of the function: s 38(7)(c). Functions exercisable by the Common Council by virtue of an authorisation under s 38(1) may, where appropriate arrangements are made, be discharged by a joint committee: see PARA 169 post.

11 Ibid s 38(2)(f). Any local authority has the power to exercise functions on behalf of the Greater London Authority in accordance with s 38, whether or not it has power to do so apart from s 38(7) and irrespective of the nature of the function: s 38(7)(d). Functions exercisable by one or more local authorities by virtue of an authorisation under s 38(1) may, where appropriate arrangements are made, be discharged by a joint committee: see PARA 169 post.

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**169. Joint exercise of functions delegated to local authorities and the Common Council of the City of London.**

Where any functions<sup>1</sup> exercisable on behalf of the Greater London Authority<sup>2</sup> by the Mayor of London<sup>3</sup> are also exercisable<sup>4</sup> by one or more local authorities<sup>5</sup> or by the Common Council of the City of London<sup>6</sup>, the Mayor and those authorities or the Common Council may enter into arrangements<sup>7</sup> for the joint discharge of the functions by a joint committee<sup>8</sup>.

Where a statutory function<sup>9</sup> of the Greater London Authority is exercisable, or has been exercised, by the Mayor acting on behalf of the Authority<sup>10</sup>, and the exercise, or any particular exercise, of that function will or may affect, or be affected by<sup>11</sup>, the exercise, or any particular exercise, of statutory functions of local authorities or the Common Council (whether or not the functions are the same in the case of each such authority or the Common Council)<sup>12</sup>, the Mayor and those authorities or the Common Council may enter into arrangements<sup>13</sup> for the joint exercise of any of the statutory functions<sup>14</sup> by a joint committee, as if those functions were exercisable by the Mayor acting on behalf of the Greater London Authority and by each local authority or the Common Council<sup>15</sup>.

1 Certain functions cannot be delegated under the Greater London Authority Act 1999 s 38(1): see PARA 168 note 1 ante. As to the principal purposes and functions of the Greater London Authority see PARA 175 et seq post.

2 As to the establishment of the Greater London Authority see PARA 79 ante.

3 As to the Mayor of London see PARA 81 ante.

4 Ie by virtue of an authorisation under the Greater London Authority Act 1999 s 38(1): see PARA 168 ante.

5 Ibid s 39(1). For the meaning of 'local authority' see PARA 17 note 9 ante. As to the delegation of functions to local authorities see PARA 168 ante.

6 Ibid s 39(8). As to the Common Council of the City of London see PARA 51 et seq ante. As to the delegation of functions to the Common Council see PARA 168 ante.

7 Ie under the Local Government Act 1972 s 101(5): see LOCAL GOVERNMENT vol 69 (2009) PARA 380. For the purposes of the Greater London Authority Act 1999 s 39(1), the Local Government Act 1972 ss 101(5), 102-106 (as amended) (see LOCAL GOVERNMENT vol 69 (2009) PARA 371 et seq) have effect as if the Greater London Authority acting by the Mayor were a local authority: Greater London Authority Act 1999 s 39(4).

8 Ibid s 39(1). Subject to statutory disqualification (see PARA 86 ante), the Mayor or any other individual may be appointed as a representative of the Greater London Authority on any joint committee established by virtue of s 39(1) and any such representative may be appointed as a member of any sub-committee of such a joint committee: s 39(7). Any arrangements made by virtue of s 39(1) for the discharge of any functions by a joint committee (or by a sub-committee of a joint committee) cannot prevent the Mayor or any local authority or the Common Council, or the joint committee by whom the arrangements are made, from exercising the functions: s 39(5).

9 For the meaning of 'statutory functions' see PARA 149 note 8 ante.

10 Greater London Authority Act 1999 s 39(2)(a).

11 The exercise of a function is taken to affect, or be affected by, the exercise of another function if the functions are exercisable for the same, or for similar or connected, purposes or in relation to the same, or similar or connected, subject matter: ibid s 39(3).

12 Ibid s 39(2)(b).

13 Ie under the Local Government Act 1972 s 101(5): see LOCAL GOVERNMENT vol 69 (2009) PARA 380. For the purposes of the Greater London Authority Act 1999 s 39(2), the Local Government Act 1972 ss 101(5), 102-106 (as amended) (see LOCAL GOVERNMENT vol 69 (2009) PARA 371 et seq) have effect as if the Greater London Authority acting by the Mayor were a local authority: Greater London Authority Act 1999 s 39(4).

14 Ie the functions referred to in ibid s 39(2)(a) or 39(2)(b): see the text and notes 9-12 supra.

15 Ibid s 39(2). Any arrangements made by virtue of s 39(2) for the discharge of any functions by a joint committee (or by a sub-committee of a joint committee) cannot prevent the Mayor or any local authority or the Common Council, or the joint committee by whom the arrangements are made, from exercising the functions: s 39(5).

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**170. Delegation of London Assembly functions to committees, sub-committees and single members of the Assembly.**

The London Assembly<sup>1</sup> may arrange for any of the functions<sup>2</sup> exercisable by it to be discharged on its behalf by a committee of the Assembly appointed for the purpose by the Assembly (an 'ordinary committee')<sup>3</sup>, or by a sub-committee of the Assembly appointed for the purpose by an ordinary committee ('ordinary sub-committees')<sup>4</sup>. The number of members of any such committee or sub-committee, and their term of office, must be fixed, in the case of an ordinary committee, by the Assembly or, in the case of an ordinary sub-committee, by the appointing committee<sup>5</sup>. An ordinary committee or sub-committee must not include any person who is not an Assembly member<sup>6</sup>. The Assembly may determine the procedure of its committees and sub-committees (including quorum)<sup>7</sup>, although any such procedure must be regulated by standing orders of the Greater London Authority<sup>8</sup>.

Where any functions exercisable by the Assembly may be discharged by a committee of the Assembly<sup>9</sup>, then, unless the Assembly otherwise directs, the committee may arrange for the discharge of any of those functions by a sub-committee or by a single member of the Assembly<sup>10</sup>. Where any functions exercisable by the Assembly may be discharged by a sub-committee of the Assembly<sup>11</sup>, then, unless the Assembly or the committee concerned otherwise directs, the sub-committee may arrange for the discharge of any of those functions by a single member of the Assembly<sup>12</sup>.

Arrangements made for the delegation of functions<sup>13</sup> do not prevent the Assembly, or the committee or sub-committee by whom the arrangements are made, from exercising those functions<sup>14</sup>.

The Assembly must maintain a register stating the name and address of every member of each committee or sub-committee of the Assembly for the time being<sup>15</sup>, which must be open to inspection by the public at the offices of the Assembly<sup>16</sup>.

1 As to the London Assembly see PARA 82 ante.

2 As to the principal purposes and functions of the Greater London Authority see PARA 175 et seq post. As to the establishment of the Greater London Authority see PARA 79 ante. The provisions of the Greater London Authority Act 1999 s 54 do not apply in relation to any function of the Assembly under s 52 (meetings of the whole Assembly: see PARAS 84, 141-143 ante): see s 52(10).

3 Ibid ss 54(1)(a), 55(1)(a). Section 54(1)-(5) is subject to any express provision contained in the Greater London Authority Act 1999 or any Act passed after it (ie after 11 November 1999): see s 54(8).

As to the political balance of Assembly committees see PARA 148 ante. As to voting at committee meetings see PARA 146 ante. As to the keeping of minutes of committee meetings see PARA 147 ante. The provisions of the Local Government Act 1972 Pt VA (ss 100A-100K) (as added and amended) (access to meetings and documents: see PARAS 151-158 ante) apply, subject to specified modifications, in respect of meetings of Assembly committees and sub-committees: Greater London Authority Act 1999 s 58(1)(b). As to the power to require attendance at meetings and production of documents see PARA 149 et seq ante.

4 Ibid ss 54(1)(a), 55(1)(b). A committee may appoint one or more sub-committees: see s 55(1)(b). As to voting at sub-committee meetings see PARA 146 ante. As to the keeping of minutes of sub-committee meetings see PARA 147 ante.

5 Ibid s 55(2).

6 Ibid s 55(3). For the meaning of 'Assembly member' see PARA 82 note 3 ante.

7 Ibid s 53(4). This is subject to ss 50-51 (election, functions and appointment of Chair and Deputy Chair: see PARA 83 ante), s 52 (meetings of the whole Assembly: see PARAS 84, 141-143 ante), s 53(1), (2) (Assembly procedure: see PARA 144 ante), s 56 (minutes of proceedings of Assembly, committee or sub-committee meetings: see PARAS 145, 147 ante), Schs 6-7 (budgetary provisions: paras 234, 236 post), and any other provision made by or under the Greater London Authority Act 1999 or any other Act (whenever passed) which regulates, or provides for the regulation of, the procedure of the Assembly: s 53(5).

8 Ibid s 36(2). As to standing orders of the Authority see PARA 140 ante. Section 36(2) is subject to any other provision of the Greater London Authority Act 1999 or any other enactment which regulates, or provides for the regulation of, the procedure of the Assembly or any procedure to be followed by the Mayor: s 36(6). As to the Mayor of London see PARA 81 ante.

9 Ie by virtue of ibid s 54.

10 Ibid s 54(3). Standing orders of the Authority may make provision regulating the procedure to be followed by any member of the Assembly by whom functions of the Authority are exercisable pursuant to arrangements under s 54: s 36(3)(a). Section 36(3)(a) is subject to any other provision of the Greater London Authority Act 1999 or any other enactment which regulates, or provides for the regulation of, the procedure of the Assembly or any procedure to be followed by the Mayor: s 36(6).

11 Ie by virtue of ibid s 54.

12 Ibid s 54(4). See note 10 supra.

13 Ie any arrangements made under ibid s 54 by the Assembly, or by a committee or sub-committee of the Assembly, for the discharge of any functions by a committee or sub-committee of the Assembly or a member of the Assembly.

14 Ibid s 54(5)(a), (b).

15 Local Government Act 1972 s 100G(1)(b) (s 100G added by the Local Government (Access to Information) Act 1985 s 1(1)); Greater London Authority Act 1999 s 58(1)(a), (b). As from a day to be appointed, the provisions of the Local Government Act 1972 s 100G(1)(b) (as added) are substituted so as to provide that the Assembly must maintain a register in respect of every committee or sub-committee of the Assembly stating: (1) the members of the Assembly who are members of the committee or sub-committee or who are entitled, in accordance with any standing orders relating to the committee or sub-committee, to speak at its meetings or any of them; (2) the name and address of every other person who is a member of the committee or sub-committee or who is entitled, in accordance with any standing orders relating to the committee or sub-committee, to speak at its meetings or any of them otherwise than in the capacity of an officer of the Assembly; and (3) the functions in relation to the committee or sub-committee of every person falling within head (1) supra who is not a member of the committee or sub-committee and of every person falling within head (2) supra: s 100G(1)(b) (as so added; and prospectively substituted by the Local Government and Housing Act 1989 s 194, Sch 11 para 24); Greater London Authority Act 1999 s 58(1)(a), (b). At the date at which this volume states the law no such date had been appointed. As to officers see PARAS 133-138 ante.

16 Local Government Act 1972 100G(4) (as added: see note 15 supra); Greater London Authority Act 1999 s 58(1)(a). See also PARA 157 ante.

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### **171. Delegation of London Assembly functions to Assembly members and Greater London Authority staff.**

The London Assembly<sup>1</sup> may arrange for any of the functions exercisable by it to be discharged on its behalf by a single member of the Assembly<sup>2</sup>. Such arrangements do not prevent the Assembly from exercising those functions<sup>3</sup>.

The Assembly may arrange for a member of staff of the Greater London Authority<sup>4</sup> to exercise on the Assembly's behalf certain functions exercisable by the Assembly relating to the appointment of staff and staff terms and conditions<sup>5</sup>.

The Assembly must maintain a list: (1) specifying those powers of the Assembly which, for the time being, are exercisable from time to time by officers of the Assembly<sup>6</sup>; and (2) stating the title of the officer by whom each of the powers specified is for the time being exercisable<sup>7</sup>. The list must be open to inspection by the public at the offices of the Assembly<sup>8</sup>.

1 As to the London Assembly see PARA 82 ante.

2 Greater London Authority Act 1999 s 54(1)(b). As to the principal purposes and functions of the Greater London Authority see PARA 175 et seq post. As to the establishment of the Greater London Authority see PARA 79 ante. Section 54(1)(b) does not apply in relation to functions under or by virtue of the Police Act 1996 s 20A (as added) (questions by Assembly members to representatives of the Metropolitan Police Authority: see POLICE vol 36(1) (2007 Reissue) PARA 156); Greater London Authority Act 1999 s 54(6). The provisions of s 54 do not apply in relation to any function of the Assembly under s 52 (meetings of the whole Assembly: see PARAS 84, 141-143 ante): see s 52(10).

The provisions of s 54(1)-(5) are subject to any express provision contained in the Greater London Authority Act 1999 or any Act passed after it (ie after 11 November 1999): see s 54(8). For an example of the disapplication of s 54 see s 60(1) (submission of a proposal to the Mayor); and PARA 174 post.

Standing orders of the Greater London Authority may make provision regulating the procedure to be followed by any member of the Assembly by whom functions of the Authority are exercisable pursuant to arrangements under s 54: s 36(3)(a). As to standing orders of the Authority see PARA 140 ante. Section 36(3)(a) is subject to any other provision of the Greater London Authority Act 1999 or any other enactment which regulates, or provides for the regulation of, the procedure of the Assembly or any procedure to be followed by the Mayor: s 36(6). As to the Mayor of London see PARA 81 ante.

3 Ibid s 54(5)(c).

4 Ie a member of staff appointed under ibid s 67(2) (see PARA 135 ante).

5 Ibid s 54(2). The functions referred to in the text are functions under s 67(2) (see PARA 135 ante) and under s 70(2) (see PARA 135 ante).

Standing orders of the Authority may make provision regulating the procedure to be followed by any member of staff of the Authority by whom functions of the Authority are exercisable pursuant to arrangements under s 54: s 36(3)(b). Section 36(3)(b) is subject to any other provision of the Greater London Authority Act 1999 or any other enactment which regulates, or provides for the regulation of, the procedure of the Assembly or any procedure to be followed by the Mayor: s 36(6).

6 Local Government Act 1972 s 100G(2)(a) (s 100G added by the Local Government (Access to Information) Act 1985 s 1(1)); Greater London Authority Act 1999 s 58(1)(a).

7 Local Government Act 1972 s 100G(2)(b) (as added: see note 6 supra); Greater London Authority Act 1999 s 58(1)(a). However, this does not require a power to be specified in the list if the arrangements for its

discharge by the officer are made for a specified period not exceeding six months: Local Government Act 1972 s 100G(2) (as so added); Greater London Authority Act 1999 s 58(1)(a).

8 Local Government Act 1972 100G(4) (as added: see note 6 supra); Greater London Authority Act 1999 s 58(1)(a). See also PARA 157 ante.



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## **172. Advisory committees.**

The London Assembly<sup>1</sup> may appoint one or more committees ('advisory committees') to advise it on any matter relating to the discharge of its functions<sup>2</sup>. An advisory committee consists of such persons (whether Assembly members<sup>3</sup> or not) appointed for such term as may be determined by the Assembly<sup>4</sup>. An advisory committee may appoint one or more sub-committees ('advisory sub-committees') to advise the committee with respect to any matter on which the committee has been appointed to advise<sup>5</sup>. The Assembly may determine the procedure of its committees and sub-committees (including quorum)<sup>6</sup>, although any such procedure is regulated by standing orders of the Greater London Authority<sup>7</sup>.

1 As to the London Assembly see PARA 82 ante.

2 Greater London Authority Act 1999 s 55(4). As to the principal purposes and functions of the Greater London Authority see PARA 175 et seq post. As to the establishment of the Greater London Authority see PARA 79 ante.

As to the political balance of Assembly committees see PARA 148 ante. As to the keeping of minutes of committee meetings see PARA 147 ante. The provisions of the Local Government Act 1972 Pt VA (ss 100A-100K) (as added and amended) (access to meetings and documents: see PARAS 151-158 ante) apply, subject to modifications, in respect of meetings of Assembly committees and sub-committees: Greater London Authority Act 1999 s 58(1)(b).

3 For the meaning of 'Assembly members' see PARA 82 note 3 ante.

4 Greater London Authority Act 1999 s 55(5).

5 Ibid s 55(5).

6 Ibid s 53(4). This is subject to ss 50-51 (election, functions and appointment of Chair and Deputy Chair: see PARA 84 ante), s 52 (meetings of the whole Assembly: see PARAS 84, 141-143 ante), s 53(1), (2) (Assembly procedure: see PARA 144 ante), s 56 (minutes of proceedings of Assembly, committee or sub-committee meetings: see PARAS 145, 147 ante), Schs 6-7 (budgetary provisions: see PARAS 234, 236 post), and any other provision made by or under the Greater London Authority Act 1999 or any other Act (whenever passed) which regulates, or provides for the regulation of, the procedure of the Assembly: s 53(5).

7 Ibid s 36(2). As to standing orders of the Authority see PARA 140 ante. Section 36(2) is subject to any other provision of the Greater London Authority Act 1999 or any other enactment which regulates, or provides for the regulation of, the procedure of the Assembly or any procedure to be followed by the Mayor: s 36(6). As to the Mayor of London see PARA 81 ante.

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### **173. Equality and the elimination of discrimination.**

In exercising its functions<sup>1</sup>, it is the duty of the Greater London Authority<sup>2</sup> (whether acting by the Mayor of London<sup>3</sup>, the London Assembly<sup>4</sup> or the Mayor and Assembly jointly), to have regard<sup>5</sup> to the need: (1) to promote equality of opportunity for all persons irrespective of their race, sex, disability, age, sexual orientation or religion<sup>6</sup>; (2) to eliminate unlawful discrimination<sup>7</sup>; and (3) to promote good relations between persons of different racial groups, religious beliefs and sexual orientation<sup>8</sup>.

1 As to the principal purposes and functions of the Greater London Authority see PARA 175 et seq post.

2 As to the establishment of the Greater London Authority see PARA 79 ante.

3 As to the Mayor of London see PARA 81 ante.

4 As to the London Assembly see PARA 82 ante.

5 Greater London Authority Act 1999 s 404(1)(a). Section 404 is without prejudice to s 33 (see PARAS 176-177 post) and is subject to any provision made by or under any other enactment: s 404(3).

6 Ibid s 404(2)(a).

7 Ibid s 404(2)(b).

8 Ibid s 404(2)(c).

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**174. Duties of London Assembly with regard to functions exercisable by the Mayor of London.**

The London Assembly<sup>1</sup> must keep under review the exercise by the Mayor of London<sup>2</sup> of the statutory functions<sup>3</sup> exercisable by him<sup>4</sup>. For these purposes<sup>5</sup>, the powers of the Assembly include in particular power to investigate, and prepare reports about:

- 243 (1) any actions and decisions of the Mayor<sup>6</sup>;
- 244 (2) any actions and decisions of any member of staff of the Greater London Authority<sup>7</sup>;
- 245 (3) matters relating to the principal purposes of the Authority<sup>8</sup>;
- 246 (4) matters in relation to which statutory functions are exercisable by the Mayor<sup>9</sup>;
- or
- 247 (5) any other matters which the Assembly considers to be of importance to Greater London<sup>10</sup>.

The Assembly may, where it decides so to do, submit a proposal to the Mayor<sup>11</sup>.

1 As to the London Assembly see PARA 82 ante.

2 As to the Mayor of London see PARA 81 ante.

3 For the meaning of 'statutory functions' see PARA 149 note 8 ante. As to the principal purposes and functions of the Greater London Authority see PARA 175 et seq post. As to the establishment of the Greater London Authority see PARA 79 ante.

4 Greater London Authority Act 1999 s 59(1).

5 Ie for the purposes of ibid s 59(1).

6 Ibid s 59(2)(a).

7 Ibid s 59(2)(b). For the meaning of 'member of staff' in relation to the Authority see PARA 86 note 5 ante.

8 Ibid s 59(2)(c). As to the principal purposes of the Authority see PARA 175 post.

9 Ibid s 59(2)(d).

10 Ibid s 59(2)(e). As to Greater London see PARA 29 ante.

11 Ibid s 60(1). Section 54 (which provides for the functions of the Assembly to be discharged by committees or single members: see PARAS 144, 170-171 ante) does not apply in relation to the function of the Assembly under s 60(1): s 60(2).

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## **(ii) Principal Purposes**

### **175. The principal purposes of the Greater London Authority.**

The principal purposes of the Greater London Authority<sup>1</sup> are:

- 248 (1) to promote economic development and wealth creation in Greater London<sup>2</sup>;
- 249 (2) to promote social development in Greater London<sup>3</sup>; and
- 250 (3) to promote the improvement of the environment in Greater London<sup>4</sup>.

Any reference in the Greater London Authority Act 1999 to the principal purposes of the Authority is a reference to these purposes<sup>5</sup>.

In exercising its functions, the Authority must have regard to the need to promote equality of opportunity and to eliminate unlawful discrimination<sup>6</sup>.

1 As to the establishment of the Greater London Authority see PARA 79 ante.

2 Greater London Authority Act 1999 s 30(2)(a). As to Greater London see PARA 29 ante. As to the power of the Authority to provide advice and assistance overseas see LOCAL GOVERNMENT vol 69 (2009) PARA 603.

3 Ibid s 30(2)(b).

4 Ibid s 30(2)(c).

5 Ibid s 30(2).

6 See ibid s 404; and PARA 173 ante. See also s 33; and PARAS 176-177 post. As to discrimination generally see DISCRIMINATION.

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### **176. General power of the Greater London Authority to act in furtherance of its principal purposes.**

The Greater London Authority<sup>1</sup> has power to do anything which it considers will further any one or more of its principal purposes<sup>2</sup>.

In determining whether or how to exercise this power to further any one or more of its principal purposes, the Authority must have regard:

- 251 (1) to the desirability of so exercising that power as to further the remaining principal purpose or purposes, so far as reasonably practicable to do so<sup>3</sup>, and to secure, over a period of time, a reasonable balance between furthering each of its principal purposes<sup>4</sup>; and
- 252 (2) to the effect which the proposed exercise of the power would have on the health of persons in Greater London<sup>5</sup> and on the achievement of sustainable development in the United Kingdom<sup>6</sup>.

In deciding whether or how to exercise this power, the Authority must also have regard to any guidance in this regard issued by the Secretary of State at his discretion<sup>7</sup>.

The power to further its principal purposes is exercisable only after consultation with such bodies or persons as the Authority may consider appropriate in the particular case<sup>8</sup>. The bodies which, and persons whom, the Authority considers consulting, when determining what consultation (if any) is appropriate, must include: (a) any London borough council<sup>9</sup>; (b) the Common Council of the City of London<sup>10</sup>; (c) voluntary bodies some or all of whose activities benefit the whole or part of Greater London<sup>11</sup>; (d) bodies which represent the interests of different racial, ethnic or national groups in Greater London<sup>12</sup>; (e) bodies which represent the interests of different religious groups in Greater London<sup>13</sup>; and (f) bodies which represent the interests of persons carrying on business in Greater London<sup>14</sup>.

Where the Authority exercises the power to further its principal purposes, it must do so in the way which it considers best calculated to promote improvements in the health of persons in Greater London<sup>15</sup> and to contribute towards the achievement of sustainable development in the United Kingdom<sup>16</sup>, except to the extent that the Authority considers that any action that would need to be taken<sup>17</sup> is not reasonably practicable in all the circumstances of the case<sup>18</sup>.

The Authority must make appropriate arrangements with a view to securing that in the exercise of the power to further its principal purposes there is due regard to the principle that there should be equality of opportunity for all people<sup>19</sup>.

1 As to the establishment of the Greater London Authority see PARA 79 ante. The functions conferred or imposed on the Authority under or by virtue of the Greater London Authority Act 1999 s 30 (see the text and notes infra) are functions of the Authority which are exercisable by the Mayor of London acting on behalf of the Authority: s 30(10). As to the exercise of the functions of the Greater London Authority see PARA 164 et seq ante. As to the Mayor of London see PARA 81 ante.

2 Greater London Authority Act 1999 s 30(1). As to the principal purposes of the Authority see PARA 175 ante.

The Authority must not by virtue of s 30(1) incur expenditure in doing anything which may be done by a functional body other than the London Development Agency (s 31(1)), and in determining whether to exercise the power conferred by s 30(1), the Authority must seek to secure that it does not incur expenditure in doing

anything which is being done by that Agency (s 31(2)). As to the functional bodies see PARAS 213-218 post. As to the London Development Agency see PARA 215 post; and TRADE AND INDUSTRY vol 97 (2010) PARA 988 et seq.

The Authority must not by virtue of s 30(1) incur expenditure in providing any housing, any education services, any social services, or any health services, in any case where the provision in question may be made by a London borough council, the Common Council of the City of London or any other public body: s 31(3). 'The provision of housing' includes a reference to the management of housing (s 31(4)(a)), but does not include a reference to the acquisition by the Authority of existing housing accommodation and the making of that accommodation available on a temporary basis for one or more of the principal purposes of the Authority or for purposes incidental to such a purpose (s 31(4)(b)). 'The provision of social services' refers to the exercise of any social services function within the meaning of the Local Authority Social Services Act 1970 (see SOCIAL SERVICES AND COMMUNITY CARE vol 44(2) (Reissue) PARA 1006): Greater London Authority Act 1999 s 31(5) (amended by the Local Government Act 2000 s 107, Sch 5 para 33). As to the London boroughs and their councils see PARAS 30, 35-39, 59 et seq ante. As to the Common Council of the City of London see PARA 51 et seq ante.

Nothing in s 31(1)-(5) is to be taken to prevent the Authority incurring expenditure in co-operating with, or facilitating or co-ordinating the activities of, the bodies mentioned in those provisions: s 31(6).

The Secretary of State may by order amend s 31 so as to: (1) make further provision for preventing the Authority from doing by virtue of s 30(1) anything which may be done by a London borough council, the Common Council or a public body, and which is specified, or is of a description specified, in the order (s 31(7)); and (2) make provision removing or restricting any prohibitions or limitations imposed by s 31 on what may be done by the Authority by virtue of s 30(1) (s 31(9)). He may by order impose limits on the expenditure which may be incurred by the Authority by virtue of s 30(1): s 31(8). As to the Secretary of State see PARA 12 note 2 ante. As to the making of orders generally see PARA 13 ante. At the date at which this volume states the law no such orders had been made.

3 Ibid s 30(3)(a).

4 Ibid s 30(3)(b).

5 Ibid s 30(4)(a). As to Greater London see PARA 29 ante.

6 Ibid s 30(4)(b). For the meaning of 'United Kingdom' see PARA 26 note 2 ante.

7 Ibid s 30(7), (8). Any such guidance must be published by the Secretary of State in such manner as he considers appropriate: s 30(9). For the meaning of 'guidance' see PARA 96 note 2 ante.

8 Ibid s 32(1). The Authority may make arrangements with any London borough council, the Common Council, bodies of the descriptions specified in heads (c)-(f) in the text, and such other bodies or persons as it may consider appropriate, for the purpose of facilitating the carrying out by the Authority of consultation pursuant to s 32 or any other provision of the Greater London Authority Act 1999: s 32(4). The functions conferred on the Authority under or by virtue of s 32 are functions of the Authority which are exercisable by the Mayor acting on behalf of the Authority: s 32(5).

9 Ibid s 32(2)(a).

10 Ibid s 32(2)(b).

11 Ibid s 32(2)(c), (3)(a).

12 Ibid s 32(2)(c), (3)(b).

13 Ibid s 32(2)(c), (3)(c).

14 Ibid s 32(2)(c), (3)(d).

15 Ibid s 30(5)(a). In s 30(5)(a) the reference to promoting improvements in health includes a reference to mitigating any detriment to health which would otherwise be occasioned by the exercise of the power: s 30(6).

16 Ibid s 30(5)(b).

17 Ie by virtue of ibid s 30(5)(a) or s 30(5)(b): see the text and notes 15-16 supra.

18 Ibid s 30(5).

19 Ibid s 33(1)(a). After each financial year the Authority must publish a report containing a statement of the arrangements made in pursuance of s 33(1) which had effect during that financial year, and an assessment of how effective those arrangements were in promoting equality of opportunity: s 33(2). For the meaning of

'financial year' see PARA 131 note 21 ante. As to the Authority's duties with regard to equality of opportunity see further PARA 173 ante. The functions conferred or imposed on the Authority under or by virtue of s 33 are functions of the Authority which are exercisable by the Mayor acting on behalf of the Authority: s 30(10).

## **UPDATE**

### **176 General power of the Greater London Authority to act in furtherance of its principal purposes**

NOTE 2--The Greater London Authority must exercise the power conferred by the Greater London Authority Act 1999 s 30(1) compatibly with the exercise of its intermediate body functions: European Regional Development Fund (London Operational Programme) (Implementation) Regulations, SI 2008/1342, reg 7(1).

TEXT AND NOTES 3-6--Now, the Authority must also have regard to health inequalities between persons living in Greater London (1999 Act s 30(4)(aa) (added by the Greater London Authority Act 2007 s 23(2))) climate change and the consequences of climate change (1999 Act s 30(4)(c) (added by the 2007 Act s 40(2))).

TEXT AND NOTE 15--Now, the Authority must exercise its power to further its principal purposes, it must do so in the way which it considers to promote the reduction of health inequalities between persons living in Greater London (1999 Act s 30(5)(aa) (added by the 2007 Act s 23(3)) to contribute towards the mitigation of, or adaptation to, climate change, in the United Kingdom (1999 Act s 30(5)(c) (added by the 2007 Act s 40(3))).

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### **(iii) Preparation of Strategies**

#### **177. Preparation, review and implementation of strategies.**

The Mayor of London<sup>1</sup> must prepare and publish the following strategies<sup>2</sup>:

- 253 (1) the transport strategy<sup>3</sup>;
- 254 (2) the London Development Agency strategy<sup>4</sup>;
- 255 (3) the spatial development strategy<sup>5</sup>;
- 256 (4) the London Biodiversity Action Plan<sup>6</sup>;
- 257 (5) the municipal waste management strategy<sup>7</sup>;
- 258 (6) the London air quality strategy<sup>8</sup>;
- 259 (7) the London ambient noise strategy<sup>9</sup>; and
- 260 (8) the culture strategy<sup>10</sup>.

The Mayor must keep each of the strategies under review and must make such revisions of the strategies as he considers necessary<sup>11</sup>. In preparing or revising any strategy, the Mayor must have regard to<sup>12</sup>:

- 261 (a) the principal purposes of the Greater London Authority<sup>13</sup>;
- 262 (b) the effect which the proposed strategy or revision would have on the health of persons in Greater London<sup>14</sup> and the achievement of sustainable development in the United Kingdom<sup>15</sup>;
- 263 (c) the need to ensure that the strategy is consistent with national policies<sup>16</sup> and with such international obligations<sup>17</sup> as the Secretary of State may notify<sup>18</sup> to the Mayor<sup>19</sup>;
- 264 (d) the need to ensure that the strategy is consistent with each other strategy<sup>20</sup>;
- 265 (e) the resources available for implementation of the strategy<sup>21</sup>; and
- 266 (f) the desirability of promoting and encouraging the use of the River Thames safely, in particular for the provision of passenger transport services and for the transportation of freight<sup>22</sup>.

The Mayor must have regard to heads (c) to (f) above in considering whether any strategy needs to be revised, or in implementing any such strategy<sup>23</sup>.

Where the Mayor prepares or revises any strategy, he must include such of the available policies and proposals<sup>24</sup> relating to the subject matter of the strategy as he considers best calculated to promote improvements in the health<sup>25</sup> of persons in Greater London<sup>26</sup>, and to contribute towards the achievement of sustainable development in the United Kingdom<sup>27</sup>, except to the extent that he considers that any action that would need to be taken<sup>28</sup> is not reasonably practicable in all the circumstances of the case<sup>29</sup>.

The Mayor must from time to time set such targets with respect to the implementation of any strategy as he may consider appropriate, having regard to: (i) any related targets or objectives set nationally<sup>30</sup>; and (ii) any performance indicators set by the Secretary of State, whether nationally or locally, which affect the exercise of functions by authorities involved in the implementation of the strategy<sup>31</sup>.



- 1 As to the Mayor of London see PARA 81 ante.
- 2 See the Greater London Authority Act 1999 s 41(1). In relation to each strategy mentioned in s 41(1) (see heads (1)-(8) in the text; and notes 3-10 infra), where the Mayor has not published the strategy and the Secretary of State considers that the Mayor is not taking such steps as are necessary to prepare the strategy, he may issue a direction to the Mayor (s 44(1)), which may direct the Mayor to prepare and publish the strategy within such period as the direction specifies (s 44(2)). Where the Secretary of State issues such a direction to the Mayor, the Mayor must comply with the direction: s 44(3). As to the Secretary of State see PARA 12 note 2 ante. As to the giving of directions see PARA 13 ante.
- 3 As to the transport strategy, which is prepared and published under *ibid* s 142, see PARAS 197, 262-268 post.
- 4 As to the London Development Agency strategy, which is prepared and published under the Regional Development Agencies Act 1998 s 7A(2) (as added), see PARA 196 post.
- 5 As to the spatial development strategy, which is prepared and published under the Greater London Authority Act 1999 Pt VIII (ss 334-350) (as amended), see PARAS 189-195 post.
- 6 As to the London Biodiversity Action Plan, which is prepared and published under *ibid* s 352 (as amended), see PARA 181 post. For the purposes of the Greater London Authority Act 1999, unless the context otherwise requires, a reference to a strategy includes a reference to the London Biodiversity Action Plan: s 41(11).
- 7 As to the municipal waste management strategy, which is prepared and published under *ibid* s 353, see PARAS 182-184 post.
- 8 As to the London air quality strategy, which is prepared and published under *ibid* s 362, see PARA 185 post.
- 9 As to the London ambient noise strategy, which is prepared and published under *ibid* s 370, see PARA 186 post.
- 10 As to the culture strategy, which is prepared and published under *ibid* s 376, see PARA 198 post.
- 11 *Ibid* s 41(2). Section 41(2) does not apply in relation to the spatial development strategy: s 41(3). Separate provision as to review of the spatial development strategy is made by s 340: see PARA 194 post.
- 12 *Ibid* s 41(1), (4).
- 13 *Ibid* s 41(4)(a). As to the establishment of the Greater London Authority see PARA 79 ante. As to the principal purposes of the Authority see PARA 175 ante.
- 14 *Ibid* s 41(4)(b)(i). As to Greater London see PARA 29 ante.
- 15 *Ibid* s 41(4)(b)(ii). For the meaning of 'United Kingdom' see PARA 26 note 2 ante.
- 16 'National policies' means any policies of Her Majesty's government which are available in a written form and which have been laid or announced before, or otherwise presented to, either House of Parliament, or have been published by a Minister of the Crown: *ibid* s 424(1). As to the meaning of 'Minister of the Crown' see PARA 12 note 1 ante.
- 17 For the purposes of *ibid* s 41, 'international obligations' means international obligations of the United Kingdom under any treaty, including obligations under the Community Treaties: s 41(10).
- 18 For the meaning of 'notify' see PARA 83 note 10 ante.
- 19 Greater London Authority Act 1999 s 41(4)(c), (5)(a). The question whether s 41(4)(c), (5)(a) makes it unlawful for a strategy to depart from national policies was considered but not decided in *R (on the application of Transport for London) v London Underground Ltd* [2001] EWHC Admin 637.
- 20 Greater London Authority Act 1999 s 41(4)(c), (5)(b).
- 21 *Ibid* s 41(4)(c), (5)(c).
- 22 *Ibid* s 41(4)(c), (5)(d).
- 23 See *ibid* s 41(6)(a), (b).

24 The Greater London Authority must make appropriate arrangements with a view to securing that in the formulation of the policies and proposals to be included in any of the strategies (s 33(1)(b)), and in the implementation of any of those strategies (s 33(1)(c)), there is due regard to the principle that there should be equality of opportunity for all people (s 33(1)). After each financial year the Authority must publish a report containing a statement of the arrangements made in pursuance of s 33(1) which had effect during that financial year (s 33(2)(a)), and an assessment of how effective those arrangements were in promoting equality of opportunity (s 33(2)(b)). For the meaning of 'financial year' see PARA 131 note 21 ante. The functions conferred or imposed on the Authority under or by virtue of s 33 are functions of the Authority which are exercisable by the Mayor acting on behalf of the Authority: s 33(3). As to the functions of the Greater London Authority see PARA 164 et seq ante. As to the Authority's duties with regard to equality of opportunity see further PARA 173 ante.

25 The reference in the text to promoting improvements in health includes a reference to mitigating any detriment to health which would otherwise be occasioned by the strategy or revision: *ibid* s 41(8).

26 *Ibid* s 41(7)(a).

27 *Ibid* s 41(7)(b).

28 *Ie* by virtue of *ibid* s 41(7)(a) or s 41(7)(b).

29 *Ibid* s 41(7).

30 *Ibid* s 41(9)(a). In setting any targets under s 41(9) the Mayor must seek to secure that they are not less demanding than any related targets or objectives which are set nationally: s 41(9).

31 *Ibid* s 41(9)(b).

## **UPDATE**

### **177 Preparation, review and implementation of strategies**

TEXT AND NOTES--Now, new heads, (g) the health inequalities strategy (see PARA 177A) (1999 Act s 41(bb) (added by the Greater London Authority Act 2007 s 24(1), (2))); (h) the London housing strategy (see PARA 177B) (1999 Act s 41(bc) (added by the 2007 Act s 28(1), (2))); (i) the London climate change mitigation and energy strategy (see PARA 177C) (1999 Act s 41(ee) (added by the 2007 Act s 43(1))); and (j) the adaption to climate change strategy for London (1999 Act s 41(ef) (added by the 2007 Act s 44(1))).

TEXT AND NOTE 23--Now, for heads (c) to (f) read (c) to (j): see TEXT AND NOTES.

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**177A. Health inequalities strategy.**

The Mayor shall prepare and publish a document to be known as the 'health inequalities strategy'<sup>1</sup>, which will contain the Mayor's proposals and policies for promoting the reduction of health inequalities between persons living in Greater London<sup>2</sup>. The proposals and policies are to be addressed to the mitigation of differences in general health determinants<sup>3</sup>. The strategy must:

- 267 (1) identify any issues that appear to the Mayor to be major health issues where there are health inequalities between persons living in Greater London<sup>4</sup>;
- 268 (2) identify those inequalities<sup>5</sup>;
- 269 (3) specify priorities for reducing those inequalities<sup>6</sup>;
- 270 (4) describe the role to be performed by any relevant body or person for the purpose of implementing the strategy<sup>6</sup>.

Provision is made for the Secretary of State to direct the Mayor to make such revisions of the strategy where the Secretary of State considers that the health inequalities strategy, or any part of it, is inconsistent with any national policies of any description, and the inconsistency would have a detrimental effect on achieving any or all of the objectives of those policies<sup>7</sup>.

1 Greater London Authority Act 1999 s 309E(1) (s 309E added by the Greater London Authority Act 2007 s 22(1)). As to the preparation and revision of the strategy, see the 1999 Act s 309G (added by the 2007 Act s 22(1)).

2 Greater London Authority Act 1999 s 309E(2). As to the health inequalities between persons living in Greater London, see s 309F (added by the 2007 Act s 22(1)).

3 Greater London Authority Act 1999 s 309E(3).

4 Ibid s 309E(4)(a).

5 Ibid s 309E(4)(b).

6 Ibid s 309E(4)(c). For the purposes of this section, 'relevant bodies or persons' are (1) the Authority; (2) any functional body; (3) any London borough council; (4) the Common Council; (5) the Health Adviser (as to the Health Adviser see ss 309A-309D (added by the Greater London Authority Act 2007 s 21(1))); (6) any Strategic Health Authority established for an area which consists of or includes the whole or part of Greater London; (7) any Primary Care Trust established for an area in Greater London; (8) any NHS trust any or all of whose hospitals, establishments or facilities are situated in Greater London; (9) any NHS foundation trust any or all of whose hospitals, establishments or facilities are situated in Greater London; and (10) any body or person not falling within any of the preceding paragraphs which appears to the Mayor to have responsibilities in relation to Greater London, or any part of Greater London, with respect to any of the matters that are general health determinants: s 309E(5).

7 See ibid s 309H (added by the Greater London Authority Act 2007 s 22(1)).

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### **177B. London housing strategy.**

The Mayor must prepare and publish a document to be known as the 'London housing strategy'<sup>1</sup> which will contain:

- 271 (1) the Mayor's assessment of housing conditions in Greater London and of the needs of Greater London with respect to the provision of further housing accommodation<sup>2</sup>;
- 272 (2) any proposals or policies of the Mayor to promote the improvement of those conditions and the meeting of those needs<sup>3</sup>;
- 273 (3) a statement of the measures which other persons or bodies are to be encouraged by the Mayor to take for the purpose of improving those conditions and meeting those needs<sup>4</sup>;
- 274 (4) a statement of the Mayor's spending recommendations for the relevant period<sup>5</sup>.

The London housing strategy shall also contain such other matters relating to housing in Greater London as the Secretary of State may direct<sup>6</sup>.

1 Greater London Authority Act 1999 s 333A(1) (s 333A added by the Greater London Authority Act 2007 s 28(4)). This is subject to the 1999 Act s 333B(1) (s 333B added by the 2007 Act s 28(4)), which deals with the submission of a draft strategy to the Secretary of State: 1999 Act s 333A(1). In preparing or revising the London housing strategy the Mayor must have regard to the effect of his proposals and policies on any region which adjoins Greater London; and any guidance given to him by the Secretary of State regarding the preparation or revision of the strategy: s 333A(7).

2 Ibid s 333A(2)(a).

3 Ibid s 333A(2)(b).

4 Ibid s 333A(2)(c).

5 Ibid s 333A(2)(d). The Mayor's spending recommendations for any period are (1) a recommendation to the Secretary of State as to how much of the money allocated by him during the relevant period for housing in Greater London should be made available to the Homes and Communities Agency; (2) recommendations to the Homes and Communities Agency as to how it should exercise its functions of giving housing financial assistance so far as relating to Greater London; and (3) a recommendation to the Secretary of State as to how much of the money allocated by him during the relevant period for housing in Greater London should be granted to each local housing authority in Greater London: s 333A(3) (amended by the Housing and Regeneration Act 2008 Sch 8 paras 72, 73(1), (2)). As to the duties of the Homes and Communities Agency and local authorities see the 1999 Act s 333D (added by the Greater London Authority Act 2007 s 28(4); and amended by Housing and Regeneration Act 2008 Sch 8 para 74). Recommendations under head (1) may include recommendations as to the amount of housing financial assistance which should be given for the different activities or purposes in respect of which housing financial assistance may be given and recommendations as to the number, type and location of houses which should be provided by means of housing financial assistance: 1999 Act s 333A(4) (amended by the 2008 Act Sch 8 paras 72, 73(1), (2)). The London housing strategy shall contain a statement of the Mayor's expectations as to how local housing authorities will use any money granted: 1999 Act s 333A(5).

6 Ibid s 333A(6). The Secretary of State may direct the Mayor to review the strategy: see s 333C (added by the Greater London Authority Act 2007 s 28(4)).

For modifications to Greater London Authority Act 1999 ss 333A, 333D see Transfer of Housing Corporation Functions (Modifications and Transitional Provisions) Order 2008, SI 2008/2839.



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**177C. London climate change mitigation and energy strategy.**

The Mayor must prepare and publish a document to be known as the 'London climate change mitigation and energy strategy'<sup>1</sup>, which will contain the Mayor's proposals and policies with respect to the contribution to be made in Greater London towards each of the following:

- 275 (1) the mitigation of climate change<sup>2</sup>;
- 276 (2) the achievement of any objectives specified or described in national policies relating to energy<sup>3</sup>.

The strategy must include the Mayor's proposals and policies relating to each of the following:

- 277 (a) minimising emissions of carbon dioxide and other significant greenhouse substances from the use of energy in Greater London for the purposes of surface transport<sup>4</sup>;
- 278 (b) minimising emissions of carbon dioxide and other significant greenhouse substances from the use of energy in Greater London for purposes other than those of transportation<sup>5</sup>;
- 279 (c) supporting innovation, and encouraging investment, in energy technologies in Greater London<sup>6</sup>;
- 280 (d) promoting the efficient production and use of energy in Greater London<sup>7</sup>.

1 Greater London Authority Act 1999 s 361B(1) (s 361B added by the Greater London Authority Act 2007 s 43(2)). The Mayor must have regard to any guidance given to him by the Secretary of State in relation to the preparation or revision of the strategy (see s 361C (added by the 2007 Act s 43(2)): 1999 Act s 361B(7). The strategy must not be inconsistent with national policies relating to mitigation of climate change, or national policies relating to energy: s 361B(8) (as added). In preparing or revising the strategy the Mayor must consult (1) the Gas and Electricity Markets Authority; (2) the Gas and Electricity Consumer Council; and (3) prescribed holders of licences granted under the Gas Act 1986 s 7 or s 7A or the Electricity Act 1989 s 6: s 361B(9). As to the duties of the Mayor and the Assembly with respect to climate change, see PARA 361A (added by the 2007 Act s 42).

2 Greater London Authority Act 1999 s 361B(2)(a).

3 Ibid s 361B(2)(b).

4 Ibid s 361B(3)(a).

5 Ibid s 361B(3)(b). 'Other significant greenhouse substances' means substances other than carbon dioxide which contribute to climate change, and which the Mayor considers it appropriate to deal with in the strategy: s 361B(4).

6 Ibid s 361B(3)(c). The Mayor must have regard to the desirability of advancing energy technologies which involve the emission of lower levels of substances which contribute to climate change: s 361B(5).

7 Ibid s 361B(3)(d). The strategy must also contain information about (1) the pattern of energy use in Greater London; (2) the levels of emissions in, or attributable to, Greater London of substances which contribute to climate change; (3) the number of households in Greater London in which one or more persons are living in fuel poverty, within the meaning of the Warm Homes and Energy Conservation Act 2000; (4) the measures to be taken, for the purpose of implementing the strategy, by the Authority, Transport for London, and the London Development Agency; and (5) the measures which other bodies or persons are to be encouraged by the Mayor to take for the purpose of implementing the strategy: Greater London Authority Act 1999 s 361B(6) (as added).



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**177D. Adaptation to climate change strategy for London.**

The Mayor must prepare and publish a document to be known as the 'adaptation to climate change strategy for London'<sup>1</sup>, which will contain the Mayor's assessment of the consequences of climate change for Greater London and his proposals and policies for adaptation to climate change, so far as relating to Greater London<sup>2</sup>.

Where the Secretary of State considers that the adaptation to climate change strategy for London, or any part of it, is inconsistent with any policies announced by Her Majesty's government with respect to climate change or the consequences of climate change, and the inconsistency would have a detrimental effect on achieving any or all of the objectives of those policies, he may direct the Mayor to make such revisions of the strategy in order to remove the inconsistency as may be specified in the direction<sup>3</sup>.

1 Greater London Authority Act 1999 s 361D(1) (s 361D added by the Greater London Authority Act 2007 s 44(2)). The Secretary of State may give to the Mayor guidance about the content of the strategy and in relation to the preparation or revision of the strategy: s 361D(2). The guidance that may be given includes guidance specifying or describing the bodies, persons or organisations which the Mayor must consult and guidance as to the evidence of climate change or its consequences, or predictions of climate change or its consequences, to which the Mayor must have regard: s 361D(3). In preparing or revising the strategy, the Mayor must have regard to any guidance given: s 361D(4).

2 Greater London Authority Act 1999 s 361D(2).

3 See the Greater London Authority Act 1999 s 361E (added by the Greater London Authority Act 2007 s 44(2)).



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### **178. Consultation concerning preparation or revision of strategies.**

In preparing or revising any strategy<sup>1</sup> the Mayor of London<sup>2</sup> must consult<sup>3</sup>:

- 281 (1) the London Assembly<sup>4</sup>;
- 282 (2) the functional bodies<sup>5</sup>;
- 283 (3) each London borough council<sup>6</sup>;
- 284 (4) the Common Council of the City of London<sup>7</sup>; and
- 285 (5) any other body or person whom he considers it appropriate to consult<sup>8</sup>.

In any case where the Mayor proposes to revise any of the strategies<sup>9</sup>, and he considers that the proposed revisions will not materially alter the strategy in question, he is not required to carry out consultation<sup>10</sup>.

1    le any of the strategies, other than the spatial development strategy, mentioned in the Greater London Authority Act 1999 s 41(1) (see PARA 177 heads (1)-(8) ante), ie the transport strategy (see PARAS 197, 262-268 post), the London Development Agency strategy (see PARA 196 post), the London Biodiversity Action Plan (see PARA 181 post), the municipal waste management strategy (see PARAS 182-184 post), the London air quality strategy (see PARA 185 post), the London ambient noise strategy (see PARA 186 post), and the culture strategy (see PARA 198 post): s 42(3). Separate provision as to consultation etc in connection with the spatial development strategy is made by Pt VIII (ss 334-350) (as amended): see PARAS 189-195 post.

2    As to the Mayor of London see PARA 81 ante.

3    Greater London Authority Act 1999 s 42(1). In discharging the duty to consult under s 42(1), the Mayor must consult the London Assembly and the functional bodies before consulting the bodies or persons referred to in s 42(1)(c)-(e) (see the text and notes 6-8 infra): s 42(5). Section 42(1) is without prejudice to any other duty imposed on the Mayor in relation to consultation: s 42(4). As to the London Assembly see PARA 82 ante. As to the functional bodies see PARAS 213-218 post.

Where the Mayor revises the culture strategy otherwise than in response to proposed revisions submitted by the Cultural Strategy Group for London under s 376(4) (see PARA 221 post), then, in the case of that revision, the bodies and persons to be consulted under s 42(1) include that body (s 376(8)(a)) and in discharging the duty to consult, the Mayor must consult that body before consulting the bodies or persons referred to in s 42(1)(c)-(e) (s 376(8)(b)). As to the Cultural Strategy Group for London see PARAS 221-224 post.

4    Ibid s 42(1)(a).

5    Ibid s 42(1)(b).

6    Ibid s 42(1)(c). As to the London boroughs and their councils see PARAS 30, 35-39, 59 et seq ante.

7    Ibid s 42(1)(d). As to the Common Council of the City of London see PARA 51 et seq ante.

8    Ibid s 42(1)(e). In determining what consultation (if any) is appropriate under s 42(1)(e), the bodies which, and persons whom, the Mayor considers consulting must include: (1) voluntary bodies some or all of whose activities benefit the whole or part of Greater London (ss 32(3)(a), 42(2)); (2) bodies which represent the interests of different racial, ethnic or national groups in Greater London (ss 32(3)(b), 42(2)); (3) bodies which represent the interests of different religious groups in Greater London (ss 32(3)(c), 42(2)); and (4) bodies which represent the interests of persons carrying on business in Greater London (ss 32(3)(d), 42(2)). As to Greater London see PARA 29 ante.

9    le the strategies to which ibid s 42 applies, which excludes the spatial development strategy: see note 1 supra.

10 Ibid s 42(6).

## **UPDATE**

### **178 Consultation concerning preparation or revision of strategies**

TEXT AND NOTES--The Mayor must consult the Assembly and the functional bodies under the 1999 Act s 42(1)(a) and (b) (see TEXT AND NOTES 4, 5) before consulting other bodies and persons under s 42(1)(c)-(e) (see TEXT AND NOTES 6-8): s 42A(2) (s 42A added by the Greater London Authority Act 2007 s 2(2)). The Mayor must have regard to any comments submitted to him in response by the Assembly or any of the functional bodies: 1999 Act s 42A(3). Before consulting under s 42(1)(c)-(e), the Mayor must prepare a statement in writing, identifying which of the comments submitted by the Assembly are accepted by the Mayor for implementation in the strategy, and setting out the reasons why any comments so submitted are not so accepted, and submit the statement to the Chair of the Assembly: s 42A(4)-(6).

NOTE 3--1999 Act s 42(5) substituted: Greater London Authority Act 2007 s 2(1). 1999 Act s 376(8) amended: 2007 Act s 50(3). Now, where the Mayor consults the Cultural Strategy Group for London, the Cultural Strategy Group for London must consult the designated consultative bodies before submitting any comments in response to the Mayor: 1999 Act s 376(8A) (added by the 2007 Act s 50(4)). 'The designated consultative bodies' means: (1) Archives, Libraries and Museums London; (2) the Arts Council of England; (3) the Commission for Architecture and the Built Environment; (4) the English Sports Council; (5) the Historic Buildings and Monuments Commission for England; (6) the Museums, Libraries and Archives Council; and (7) the UK Film Council: 1999 Act s 367(10) (added by the 2007 Act s 50(5)). The Secretary of State may by order amend the 1999 Act s 367(10) by adding or removing bodies, or by amending names of bodies, but not so as to include any body that does not have functions relating to sport, culture or the arts: s 367(11) (added by the 2007 Act s 50(5)).

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/3. THE GREATER LONDON AUTHORITY/(5) FUNCTIONS AND POWERS/ (iii) Preparation of Strategies/179. Publicity and availability of strategies.

### **179. Publicity and availability of strategies.**

The Mayor of London<sup>1</sup> must take such steps as in his opinion will give adequate publicity to the current version of each strategy<sup>2</sup>, and must send to the Common Council of the City of London<sup>3</sup> and to each London borough council<sup>4</sup> a copy of the current version of each strategy<sup>5</sup>. A copy of the current version of each strategy must be kept available by the Mayor for inspection by any person on request free of charge at the principal offices of the Greater London Authority<sup>6</sup>, and at such other places as the Mayor considers appropriate, at reasonable hours<sup>7</sup>. A copy of the current version of each strategy, or any part of a strategy, must be supplied to any person on request for such reasonable fee as the Mayor may determine<sup>8</sup>.

1 As to the Mayor of London see PARA 81 ante.

2 Greater London Authority Act 1999 s 43(1). The strategies referred to in the text are the strategies to which s 42 applies (see PARA 178 note 1 ante), ie the transport strategy (see PARAS 197, 262-268 post), the London Development Agency strategy (see PARA 196 post), the London Biodiversity Action Plan (see PARA 181 post), the municipal waste management strategy (see PARAS 182-184 post), the London air quality strategy (see PARA 185 post), the London ambient noise strategy (see PARA 186 post), and the culture strategy (see PARA 198 post). Separate provision in connection with the spatial development strategy is made by Pt VIII (ss 334-350) (as amended): see PARAS 189-195 post.

A reference to 'the current version' of a strategy or part of a strategy (other than the spatial development strategy) is a reference to that strategy as last published, whether originally or as revised: s 43(5)(b).

3 As to the Common Council of the City of London see PARA 51 et seq ante.

4 As to the London boroughs and their councils see PARAS 30, 35-39, 59 et seq ante.

5 Greater London Authority Act 1999 s 43(2).

6 As to the establishment of the Greater London Authority see PARA 79 ante.

7 Greater London Authority Act 1999 s 43(3).

8 Ibid s 43(4).

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/3. THE GREATER LONDON AUTHORITY/(5) FUNCTIONS AND POWERS/(iv) Environmental Functions/A. ENVIRONMENTAL REPORT/180. The state of the environment report.

## **(iv) Environmental Functions**

### **A. ENVIRONMENTAL REPORT**

#### **180. The state of the environment report.**

The Mayor of London<sup>1</sup> must produce<sup>2</sup> and publish<sup>3</sup> a report on the environment in Greater London<sup>4</sup>, to be known as a 'state of the environment report'<sup>5</sup>, which must contain information about:

- 286 (1) air quality and emissions to air, including in particular emissions from road traffic<sup>6</sup>;
- 287 (2) road traffic levels<sup>7</sup>;
- 288 (3) water quality and emissions to water<sup>8</sup>;
- 289 (4) ground water levels<sup>9</sup>;
- 290 (5) energy consumption and the emission of substances which contribute to climate change<sup>10</sup>;
- 291 (6) land quality<sup>11</sup>;
- 292 (7) biodiversity<sup>12</sup>;
- 293 (8) the production, minimisation, recycling and disposal of waste<sup>13</sup>;
- 294 (9) noise<sup>14</sup>;
- 295 (10) natural resources<sup>15</sup>; and
- 296 (11) litter<sup>16</sup>,

in relation to Greater London, and which may contain information about any other matters in relation to Greater London which the Mayor considers appropriate<sup>17</sup>.

1 As to the Mayor of London see PARA 81 ante.

2 Before producing a state of the environment report, the Mayor must consult the Environment Agency (Greater London Authority Act 1999 s 351(4)(a)), each London borough council (s 351(4)(b)), the Common Council of the City of London (s 351(4)(c)), and any other person who the Mayor considers it appropriate to consult (s 351(4)(d)). As to the Environment Agency see ENVIRONMENTAL QUALITY AND PUBLIC HEALTH vol 45 (2010) PARA 68 et seq. As to the London boroughs and their councils see PARAS 30, 35-39, 59 et seq ante. As to the Common Council of the City of London see PARA 51 et seq ante.

3 The state of the environment report must be published: (1) in the case of the first report, before the end of the period of three years beginning with the day of the first ordinary election (ibid s 351(2)(a)); and (2) in the case of each subsequent report, before the end of the period of four years beginning with the day on which the previous report was published (s 351(2)(b)). As to ordinary elections see PARA 89 ante.

4 As to Greater London see PARA 29 ante.

5 Greater London Authority Act 1999 s 351(1). A copy of each state of the environment report must be kept available for the appropriate period by the Mayor for inspection by any person on request free of charge at the principal offices of the Greater London Authority at reasonable hours: s 351(5). A copy of each report, or any part of such a report, must be supplied to any person on request during the appropriate period for such reasonable fee as the Mayor may determine: s 351(6). For these purposes, the appropriate period is the period of six years beginning with the date of publication of the report pursuant to s 351: see s 351(7). As to the establishment of the Greater London Authority see PARA 79 et seq ante.

6 Ibid s 351(3)(a). Provision is also made for the preparation and publication of an air quality strategy: see PARA 185 post.

7 Ibid s 351(3)(b).

8 Ibid s 351(3)(c).

9 Ibid s 351(3)(d).

10 Ibid s 351(3)(e).

11 Ibid s 351(3)(f).

12 Ibid s 351(3)(g). Provision is also made for the preparation and publication of a London Biodiversity Action Plan: see PARA 181 post.

13 Ibid s 351(3)(h). Provision is also made for the preparation and publication of a waste management strategy: see PARAS 182-184 post.

14 Ibid s 351(3)(i). Provision is also made for the preparation and publication of a London ambient noise strategy: see PARA 186 post. As to aircraft noise see PARA 187 post.

15 Ibid s 351(3)(j).

16 Ibid s 351(3)(k).

17 Ibid s 351(3). In consequence of the duty imposed on the Mayor to produce the environmental report and to prepare and publish various environmental strategies, the London Ecology Committee (which was a joint committee appointed pursuant to the Local Government Act 1972 Pt VI (ss 101-109) (as amended) (see LOCAL GOVERNMENT vol 69 (2009) PARA 371 et seq)) has been abolished: see the Greater London Authority Act 1999 s 374. As to the environmental strategies see notes 6, 12-14 supra; and PARA 181 et seq post.

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/3. THE GREATER LONDON AUTHORITY/(5) FUNCTIONS AND POWERS/(iv) Environmental Functions/B. BIODIVERSITY/181. The London Biodiversity Action Plan.

## **B. BIODIVERSITY**

### **181. The London Biodiversity Action Plan.**

The Mayor of London<sup>1</sup> must prepare and publish a document, to be known as the 'London Biodiversity Action Plan'<sup>2</sup>, which must contain information about:

- 297 (1) the ecology of Greater London<sup>3</sup>;
- 298 (2) the wildlife of Greater London and its habitat<sup>4</sup>;
- 299 (3) any proposals for the conservation and promotion by the Mayor of biodiversity within Greater London, which have been agreed between the Mayor and any person or body he is required to consult in relation to the London Biodiversity Action Plan<sup>5</sup>; and
- 300 (4) any commitments as to the conservation and promotion of biodiversity within Greater London made by any person or body who is required to be consulted by the Mayor in relation to the London Biodiversity Action Plan<sup>6</sup>.

1 As to the Mayor of London see PARA 81 ante.

2 Greater London Authority Act 1999 s 352(1). For the general duties of the Mayor in relation to his strategies (which include the London Biodiversity Action Plan) see PARAS 177-179 ante. As to the duty to revise the strategies see PARA 177 et seq ante. As to the publicity and availability of strategies see PARA 179 ante. In the Greater London Authority Act 1999, references to the London Biodiversity Action Plan include, except where the context otherwise requires, a reference to the London Biodiversity Action Plan as revised: s 352(6). Where the Mayor revises the London Biodiversity Action Plan he must publish it as revised: s 352(5).

In preparing or revising the London Biodiversity Action Plan, the Mayor must consult English Nature (s 352(3)(a) (amended by the Countryside and Rights of Way Act 2000 s 73(4), Sch 8 para 1(v)), the Countryside Agency (Greater London Authority Act 1999 s 352(3)(b)), and the Environment Agency (s 352(3)(c)). He must also have regard to any plans relating to biodiversity prepared by a London borough council or the Common Council of the City of London (s 352(4)(a)), and to any guidance given to him by the Secretary of State about the matters which he is to take into account in preparing or revising the London Biodiversity Action Plan (s 352(4)(b)). As to English Nature see OPEN SPACES AND COUNTRYSIDE vol 78 (2010) PARA 523. As to the Countryside Agency (formerly the Countryside Commission) see OPEN SPACES AND COUNTRYSIDE vol 78 (2010) PARA 523. As to the Environment Agency see ENVIRONMENTAL QUALITY AND PUBLIC HEALTH vol 45 (2010) PARA 68 et seq. As to the London boroughs and their councils see PARAS 30, 35-39, 59 et seq ante. As to the Common Council of the City of London see PARA 51 et seq ante. For the meaning of 'guidance' see PARA 96 note 2 ante. As to the Secretary of State see PARA 12 note 2 ante. As to consultation in connection with the preparation or revision of strategies see also PARA 178 ante.

3 Ibid s 352(2)(a). As to Greater London see PARA 29 ante.

4 Ibid s 352(2)(b).

5 Ibid s 352(2)(c). As to the persons whom the Mayor is required to consult in relation to the London Biodiversity Action Plan see note 2 supra.

6 Ibid s 352(2)(d).

## **UPDATE**

### **181 The London Biodiversity Action Plan**

NOTE 2--1999 Act s 352(a) substituted for s 352(a), (b) by the Natural Environment and Rural Communities Act 2006 Sch 11 Pt 1 para 151.

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## **C. WASTE**

### **182. The municipal waste management strategy.**

The Mayor of London<sup>1</sup> must prepare and publish a document, to be known as the 'municipal waste management strategy'<sup>2</sup>, which must contain the Mayor's proposals and policies for the recovery, treatment and disposal of municipal waste<sup>3</sup>, and may contain such other proposals and policies relating to municipal waste as the Mayor considers appropriate<sup>4</sup>.

Where the Secretary of State considers that either:

- 301 (1) the municipal waste management strategy or its implementation<sup>5</sup> is likely to be detrimental to any area outside Greater London<sup>6</sup>; or
- 302 (2) a direction about the content of the strategy is required for the purposes of the implementation of the policies contained in the strategy prepared by the Secretary of State<sup>7</sup>,

he may give the Mayor a direction about the content of the strategy<sup>8</sup>.

1 As to the Mayor of London see PARA 81 ante.

2 Greater London Authority Act 1999 s 353(1). For the general duties of the Mayor in relation to his strategies see PARAS 177-179 ante. As to the duty to revise the strategies see PARA 177 et seq ante. As to the publicity and availability of strategies see PARA 179 ante. In the Greater London Authority Act 1999, references to the municipal waste management strategy include, except where the context otherwise requires, a reference to the strategy as revised: s 353(7). Where the Mayor revises the municipal waste management strategy he must publish it as revised: s 353(6).

In preparing the municipal waste management strategy, the Mayor must have regard to the plans prepared by waste collection authorities in Greater London in accordance with the Environmental Protection Act 1990 s 49 (as amended) (waste recycling plans: see ENVIRONMENTAL QUALITY AND PUBLIC HEALTH vol 46 (2010) PARAS 628, 697): Greater London Authority Act 1999 s 353(3). For the purposes of ss 353-359, 'waste collection authority in Greater London' is to be construed in accordance with the Environmental Protection Act 1990 s 30(3)(b) (see ENVIRONMENTAL QUALITY AND PUBLIC HEALTH vol 46 (2010) PARA 620): Greater London Authority Act 1999 s 360(1), (2). As to Greater London see PARA 29 ante.

In preparing or revising the municipal waste management strategy, the Mayor must have regard to: (1) the strategy prepared by the Secretary of State in accordance with the Environmental Protection Act 1990 s 44A (as added) (the national waste strategy: see ENVIRONMENTAL QUALITY AND PUBLIC HEALTH vol 46 (2010) PARA 627) (Greater London Authority Act 1999 s 353(4)(a)); and (2) any guidance given to him by the Secretary of State for the purposes of the implementation of that strategy and relating to the content of the municipal waste management strategy (s 353(4)(b)). As to the Secretary of State see PARA 12 note 2 ante. For the meaning of 'guidance' see PARA 96 note 2 ante.

In preparing or revising the municipal waste management strategy, the Mayor must consult the Environment Agency (s 353(5)(a)), waste disposal authorities in Greater London (s 353(5)(b)), any waste disposal authority the area of which has a boundary which adjoins any part of the boundary of Greater London (s 353(5)(c)), local authorities in whose areas municipal waste is disposed of by waste disposal authorities in Greater London or is proposed in the strategy to be so disposed of (s 353(5)(d)), and any other body which is concerned with the minimisation, recovery, treatment or disposal of municipal waste and which the Mayor considers it appropriate to consult (s 353(5)(e)). As to the Environment Agency see ENVIRONMENTAL QUALITY AND PUBLIC HEALTH vol 45 (2010) PARA 68 et seq. 'Waste disposal authority in Greater London' is to be construed in accordance with the Environmental Protection Act 1990 s 30(2)(b) (see ENVIRONMENTAL QUALITY AND PUBLIC HEALTH vol 46 (2010) PARA 620): Greater London Authority Act 1999 s 360(1), (2). For the meaning of 'local authority' see PARA 17 note 9 ante. As to consultation in connection with the preparation or revision of strategies see also PARA 178 ante.



'Municipal waste' means any waste in the possession or under the control of a body which, or a person who, is a waste collection authority in Greater London, or a body which is a waste disposal authority in Greater London, whether or not the waste is in the possession or under the control of the body or person under or by virtue of the Environmental Protection Act 1990: Greater London Authority Act 1999 s 360(1), (2). 'Waste' is to be construed in accordance with the Environmental Protection Act 1990 s 75 (as amended) (see ENVIRONMENTAL QUALITY AND PUBLIC HEALTH vol 46 (2010) PARAS 623, 624): Greater London Authority Act 1999 s 360(1), (2). 'Disposal' and 'treatment', in relation to waste, are to be construed in accordance with the Environmental Protection Act 1990 s 26(6) (see ENVIRONMENTAL QUALITY AND PUBLIC HEALTH vol 46 (2010) PARA 620): Greater London Authority Act 1999. 'Recovery', in relation to waste, includes the recovery of materials from waste and the recovery of energy from waste: s 360(1), (2).

3 Ibid s 353(2)(a).

4 Ibid s 353(2)(b).

5 As to the implementation of the strategy see PARAS 183-184 post.

6 Greater London Authority Act 1999 s 354(2)(a).

7 Ibid s 354(2)(b).

8 Ibid s 354(1). As to the giving of directions generally see PARA 13 ante. The power of the Secretary of State to give a direction under s 354(1) may be exercised either generally or specially (s 354(3)(a)) and may only be exercised after consultation with the Mayor (s 354(3)(b)). Where the Secretary of State gives the Mayor such a direction the Mayor must comply with it: s 354(4).

## **UPDATE**

### **182 The municipal waste management strategy**

TEXT AND NOTES--As to the London Waste and Recycling Board see PARA 182A.

NOTE 2--Greater London Authority Act 1999 s 353(3) replaced by s 353(3A) by virtue of which, in revising the municipal waste management strategy, the Mayor is to have regard to any strategies which authorities in Greater London have for the purposes of the Waste and Emissions Trading Act 2003 s 32 (see ENVIRONMENTAL QUALITY AND PUBLIC HEALTH vol 46 (2010) PARA 628): 1999 Act s 353(3A) (added by the 2003 Act s 32(12)).

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/3. THE GREATER LONDON AUTHORITY/(5) FUNCTIONS AND POWERS/(iv) Environmental Functions/C. WASTE/182A. London Waste and Recycling Board.

### **182A. London Waste and Recycling Board.**

There will be a body known as the London Waste and Recycling Board<sup>1</sup>, the objectives of which are to promote and encourage, so far as relating to Greater London:

- 303 (1) the production of less waste<sup>2</sup>;
- 304 (2) an increase in the proportion of waste that is re-used or recycled<sup>3</sup>;
- 305 (3) the use of methods of collection, treatment and disposal of waste which are more beneficial to the environment<sup>4</sup>.

For the purpose of achieving its objectives, the Board may provide financial assistance to any person towards or for the purposes of:

- 306 (a) the provision of facilities for or in connection with the collection, treatment or disposal of waste produced in Greater London<sup>5</sup>;
- 307 (b) conducting research into new technologies or techniques for the collection, treatment or disposal of waste<sup>6</sup>;
- 308 (c) securing, or assisting in securing, the performance of any function of a London borough council or the Common Council relating to waste<sup>7</sup>.

In carrying out its functions under this section, the Board must act in accordance with the municipal waste management strategy and act in general conformity with the spatial development strategy so far as relating to the collection, treatment and disposal of waste<sup>8</sup>. For the purpose of achieving its objectives, the Board may provide advice on such matters as it thinks fit to any of the following: (i) the Mayor; (ii) any London borough council; (iii) the Common Council; (iv) such other persons as the Board thinks fit<sup>9</sup>. The Board may do anything that it thinks will facilitate, or is incidental or conducive to, the carrying out such functions<sup>10</sup>.

1 Greater London Authority Act 1999 s 356A(1) (s 356A added by the Greater London Authority Act 2007 s 38(1)). The Board does not have the power to borrow money: s 356A(7).

2 Greater London Authority Act 1999 s 356A(2)(a). The Secretary of State may by order make provision as to (1) the constitution of the Board; (2) the appointment of its members (who must not be fewer than 7 nor more than 13 in number); (3) the payment of allowances and expenses to its members; (4) and such other matters in connection with its establishment and administration as the Secretary of State thinks fit: s 356B(1) (s 356B added by the Greater London Authority Act 2007 s 38(1)). See the London Waste and Recycling Board Order 2008, SI 2008/2038. The Secretary of State may make payments by way of grant to the Board towards expenditure incurred or to be incurred by it: 1999 Act s 365B(3). The amount of any grant and the manner of its payment are to be such as the Secretary of State may determine: s 365B(4). Any grant may be paid on such conditions as the Secretary of State may determine: s 365B(5).

3 Ibid s 356A(2)(b).

4 Ibid s 356A(2)(c).

5 Ibid s 356A(3)(a). 'Collection, treatment or disposal of waste' includes a reference to the transport of waste for or in connection with that purpose: s 356A(10).

6 Ibid s 356A(3)(b).

7 Ibid s 356A(3)(c).

8 Ibid s 356A(5).

9 Ibid s 356A(4).

10 Ibid s 356A(6). The Secretary of State may issue to the Board guidance as to the exercise of its functions: s 356A(8) (as added). The Board shall have regard to any guidance issued: s 356A(9). See the London Waste and Recycling Board Order 2008, SI 2008/2038.

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/3. THE GREATER LONDON AUTHORITY/(5) FUNCTIONS AND POWERS/(iv) Environmental Functions/C. WASTE/183. Implementation of the municipal waste management strategy.

### **183. Implementation of the municipal waste management strategy.**

In exercising any function under Part II of the Environmental Protection Act 1990<sup>1</sup>, each of the waste collection authorities in Greater London<sup>2</sup>, and each of the waste disposal authorities in Greater London<sup>3</sup>, must have regard to the municipal waste management strategy<sup>4</sup>.

Where the Mayor of London<sup>5</sup> considers that it is necessary for the purposes of the implementation of the municipal waste management strategy<sup>6</sup>, he may give to a waste collection authority in Greater London, or a waste disposal authority in Greater London, a direction requiring the authority to exercise a function in a manner specified in the direction<sup>7</sup>. The Mayor may not give such a direction requiring the authority to terminate a waste contract<sup>8</sup> before the expiry of the term of the contract or to do anything which would result in a breach of any term of a waste contract<sup>9</sup>. The Mayor may not give an authority a direction requiring it to exercise a function in relation to the awarding of a waste contract if the authority is required to comply with the public procurement regulations<sup>10</sup> in awarding that contract and in compliance with those regulations the authority has sent the second information notice<sup>11</sup> relating to the awarding of that contract to the Official Journal of the European Communities<sup>12</sup>.

1    le the Environmental Protection Act 1990 Pt II (ss 29-78) (as amended): see ENVIRONMENTAL QUALITY AND PUBLIC HEALTH vol 46 (2010) PARA 620 et seq.

2    For the meaning of 'waste collection authority in Greater London' see PARA 182 note 2 ante. As to Greater London see PARA 29 ante.

3    For the meaning of 'waste disposal authority in Greater London' see PARA 182 note 2 ante.

4    Greater London Authority Act 1999 s 355. As to the municipal waste management strategy see PARA 182 ante.

5    As to the Mayor of London see PARA 81 ante.

6    As to the implementation of the strategy in the awarding of waste contracts see PARA 184 post.

7    Greater London Authority Act 1999 s 356(1). The power of the Mayor to give a direction to an authority under s 356(1) may be exercised either generally or specially (s 356(4)(a)), and may only be exercised after consultation with the authority concerned (s 356(4)(b)). Where the Mayor gives an authority such a direction, the authority to whom the direction is given must comply with it: s 356(5). As to the giving of directions generally see PARA 13 ante.

Before the first publication of the municipal waste management strategy, s 356(1) had effect as if the reference to the municipal waste management strategy were a reference to the policies contained in the strategy prepared by the Secretary of State in accordance with the Environmental Protection Act 1990 s 44A (as added) (national waste strategy: see ENVIRONMENTAL QUALITY AND PUBLIC HEALTH vol 46 (2010) PARA 627): Greater London Authority Act 1999 s 360(1), (5). As to the Secretary of State see PARA 12 note 2 ante.

8    For the purposes of *ibid* ss 353-359, 'waste contract' means a contract which includes or is to include provision relating to municipal waste and is made or to be made by a waste authority in the performance of its functions under the Environmental Protection Act 1990 Pt II (as amended) (see ENVIRONMENTAL QUALITY AND PUBLIC HEALTH vol 46 (2010) PARA 620 et seq): Greater London Authority Act 1999 s 360(1), (2). 'Waste authority' means a waste collection authority in Greater London, or a waste disposal authority in Greater London: s 360(1), (2). For the meaning of 'municipal waste' see PARA 182 note 2 ante.

9    *Ibid* s 356(2).

10   For the purposes of *ibid* ss 353-359, 'public procurement regulations' means any of: (1) the Public Works Contracts Regulations 1991, SI 1991/2680 (as amended); (2) the Public Services Contracts Regulations 1993, SI

1993/3228 (as amended); (3) the Public Supply Contracts Regulations 1995, SI 1995/201 (as amended); and (4) the Utilities Contracts Regulations 1996, SI 1996/2911 (as amended): Greater London Authority Act 1999 s 360(1), (2).

11 For the purposes of ibid ss 353-359, 'second information notice', in relation to the awarding of a waste contract by a waste authority, means:

- 42 (1) in a case where the authority is required in the awarding of that contract to comply with the Public Works Contracts Regulations 1991, SI 1991/2680 (as amended), the Public Services Contracts Regulations 1993, SI 1993/3228 (as amended), or the Public Supply Contracts Regulations 1995, SI 1995/201 (as amended), a notice in respect of that contract sent to the Official Journal of the European Communities in compliance with the relevant regulations (Greater London Authority Act 1999 s 360(1), (4)(a)); or
- 43 (2) in a case where the authority is required in the awarding of that contract to comply with the Utilities Contracts Regulations 1996, SI 1996/2911 (as amended), a notice in respect of that contract sent to the Official Journal of the European Communities which in accordance with reg 15(2)(b) satisfies the requirement of reg 15(1) to make a call for competition (Greater London Authority Act 1999 s 360(1), (4)(b)).

12 Ibid s 356(3).

## UPDATE

### 183 Implementation of the municipal waste management strategy

TEXT AND NOTES--1999 Act s 355 amended: Greater London Authority Act 2007 s 37

NOTES 6, 7--A direction cannot be necessary for the implementation of the municipal waste management strategy if it excludes an option which might accord with the strategy when read as a whole: *R (on the application of West London Waste Authority) v The Mayor of London* [2007] EWHC 757 (Admin), [2007] JPL 1715. See also *R (on the application of Enfield LBC) v Mayor of London* [2008] EWCA Civ 202, [2008] LGR 615 (direction irrational where contrary to planning decision).

NOTE 10--'Public procurement regulations' now means either the Public Contract Regulations 2006, SI 2006/5 (see BUILDING CONTRACTS, ARCHITECTS, ENGINEERS, VALUERS AND SURVEYORS vol 4(3) (Reissue) PARA 23A; LOCAL GOVERNMENT vol 69 (2009) PARAS 418-423), or the Utilities Contracts Regulations 2006, SI 2006/6 (see FUEL AND ENERGY vol 19(1) (2007 Reissue) PARA 643 et seq): 1999 Act s 360(1), (2) (definition substituted by SI 2006/5).

NOTE 11--Definition of 'second information notice' substituted: 1999 Act s 360(4) (substituted by SI 2006/5).

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**184. Provision of information about waste contracts for the purposes of implementing the municipal waste management strategy.**

Where the Mayor of London<sup>1</sup> has been notified<sup>2</sup> of the expiration date of a waste contract<sup>3</sup> or of the proposed termination or amendment of a contract<sup>4</sup>, he may direct<sup>5</sup> the waste authority to provide him with such information<sup>6</sup> as he may require for the purposes of deciding whether:

- 309 (1) the arrangements which the authority is making to enter into a new contract<sup>7</sup>;
- 310 (2) the terms upon which the authority is proposing to enter into a new contract<sup>8</sup>;
- or
- 311 (3) the amendments or proposed amendments to the contract<sup>9</sup>,

would be detrimental to the implementation of the municipal waste management strategy<sup>10</sup>.

Where in the course of the awarding of a waste contract an authority has notified the Mayor:

- 312 (a) in a case where the authority is required to comply with the public procurement regulations, that it proposes to send the first information notice<sup>11</sup> relating to the awarding of the contract to the Official Journal of the European Communities<sup>12</sup>; or
- 313 (b) in a case where the authority is not required to comply with the public procurement regulations, that it proposes to enter into such a contract<sup>13</sup>,

the Mayor may direct<sup>14</sup> the authority to provide him with such information<sup>15</sup> about the contract as he may require for the purposes of deciding whether the contract would be detrimental to the implementation of the municipal waste management strategy<sup>16</sup>.

1 As to the Mayor of London see PARA 81 ante.

2 For the meaning of 'notify' see PARA 83 note 10 ante.

3 Ie in pursuance of the Greater London Authority Act 1999 s 357(2), which provides that a waste authority which is a party to a waste contract must at least two years before the date on which the term of the contract is due to expire, but no earlier than three years before that date, notify the Mayor of that date. For the meanings of 'waste authority' and 'waste contract' see PARA 183 note 8 ante.

Where a waste authority was a party to a waste contract on 3 July 2000 (ie the date on which s 357 was brought into force), it had to notify the Mayor, within a 21-day period, of the date on which the term of the contract was due to expire: see s 357(1).

4 Ie in pursuance of ibid s 357(4), which provides that if at any time before the date on which the term of a waste contract is due to expire a waste authority which is a party to the contract proposes to terminate or amend the contract, or receives notification from another party to the contract that the contract is or is proposed to be terminated or amended, the authority must as soon as reasonably practicable notify the Mayor.

5 Where the Mayor gives an authority any direction under ibid s 357(5), the authority to whom the direction is given must comply with it: s 357(6). As to the giving of directions generally see PARA 13 ante.

6 Nothing in ibid s 357 or s 358 can require a waste authority to provide any information if: (1) the information has been provided to the waste authority by another person (s 359(1)(a)); (2) that person has imposed requirements as to the maintenance by the waste authority of confidentiality in respect of the

information (s 359(1)(b)); (3) the waste authority is, by virtue of the public procurement regulations, under a duty to comply with those requirements (s 359(1)(c)); and (4) the provision of the information would be in breach of that duty (s 359(1)(d)). For the meaning of 'public procurement regulations' see PARA 183 note 10 ante. If at the time when information is provided by a waste authority to the Mayor under s 357 or s 358 the waste authority notifies the Mayor that, in the opinion of the authority, the information is confidential information or exempt information, the information must not be disclosed by the Mayor, except to a person appointed under s 67(1) or s 67(2) (see PARAS 133-135 ante), or by such a person, except to another such person: s 359(2). For the purposes of s 359(2), 'confidential information' has the meaning given by the Local Government Act 1972 s 100A(3) (as added) (see PARA 151 note 3 ante), but taking the reference to the Assembly as a reference to the waste authority; and 'exempt information' is to be construed in accordance with s 100I (as added) (see PARA 158 ante), but taking references to the London Assembly as references to a waste authority: Greater London Authority Act 1999 s 359(3).

7 Ibid s 357(5)(a).

8 Ibid s 357(5)(b).

9 Ibid s 357(5)(c).

10 Ibid s 357(5). As to the municipal waste management strategy see PARA 182 ante. Before the first publication of the municipal waste management strategy, ss 357(5), 358(3) (see the text and note 16 infra) had effect as if the reference to the municipal waste management strategy were a reference to the policies contained in the strategy prepared by the Secretary of State in accordance with the Environmental Protection Act 1990 s 44A (as added) (national waste strategy: see ENVIRONMENTAL QUALITY AND PUBLIC HEALTH vol 46 (2010) PARA 627): Greater London Authority Act 1999 s 360(1), (5). As to the Secretary of State see PARA 12 note 2 ante.

11 For the purposes of ibid ss 353-359, 'first information notice', in relation to the awarding of a waste contract by a waste authority, means:

44 (1) in a case where the authority is required in the awarding of that contract to comply with the Public Works Contracts Regulations 1991, SI 1991/2680 (as amended), the Public Services Contracts Regulations 1993, SI 1993/3228 (as amended), or the Public Supply Contracts Regulations 1995, SI 1995/201 (as amended), a notice in respect of that contract sent to the Official Journal of the European Communities in compliance with reg 9 of the relevant regulations (Greater London Authority Act 1999 s 360(1), (3)(a)); or

45 (2) in a case where the authority is required in the awarding of that contract to comply with the Utilities Contracts Regulations 1996, SI 1996/2911 (as amended), a notice in respect of that contract sent to the Official Journal of the European Communities in compliance with reg 14 (as amended) (Greater London Authority Act 1999 s 360(1), (3)(b)).

12 In pursuance of ibid s 358(1), which provides that if in the awarding of a waste contract a waste authority is required to comply with the public procurement regulations, the authority must not send the first information notice relating to the awarding of the contract to the Official Journal of the European Communities unless it has notified the Mayor that it proposes to send such a notice, and a period of at least 56 days beginning with the day on which the Mayor is so notified has elapsed.

13 In pursuance of ibid s 358(2), which provides that if in the awarding of a waste contract a waste authority is not required to comply with the public procurement regulations, the authority must not enter into the contract unless the authority has notified the Mayor that it proposes to enter into such a contract, and a period of at least 56 days beginning with the day on which the Mayor is so notified has elapsed.

14 Where the Mayor gives an authority any direction under ibid s 358(3), the authority to whom the direction is given must comply with it: s 358(4).

15 As to the confidentiality of information see note 6 supra.

16 Greater London Authority Act 1999 s 358(3).

## UPDATE

### **184 Provision of information about waste contracts for the purposes of implementing the municipal waste management strategy**

NOTE 11--Definition of 'first information notice' substituted: Public Contract Regulations 2006, SI 2006/5.

NOTE 12--1999 Act s 358(1) substituted: Greater London Authority Act 2007 s 39(2), (3).



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## **D. AIR QUALITY**

### **185. The London air quality strategy.**

The Mayor of London<sup>1</sup> must prepare and publish a document, to be known as the 'London air quality strategy'<sup>2</sup>, which must contain:

- 314 (1) the Mayor's proposals and policies for the implementation in Greater London of the policies contained in the national air quality strategy<sup>3</sup>;
- 315 (2) the Mayor's proposals and policies for the achievement in Greater London of the prescribed air quality standards and objectives<sup>4</sup>;
- 316 (3) information about the air quality in Greater London and the likely future air quality in Greater London<sup>5</sup>;
- 317 (4) information about the measures which are to be taken by the Greater London Authority<sup>6</sup>, Transport for London<sup>7</sup> and the London Development Agency<sup>8</sup> for the purpose of the implementation of the London air quality strategy<sup>9</sup>; and
- 318 (5) information about the measures which other persons or bodies are to be encouraged by the Mayor to take for the purpose of the implementation of the strategy<sup>10</sup>.

It may also contain such other proposals and policies relating to the improvement of air quality in Greater London as the Mayor considers appropriate<sup>11</sup>.

Where the Secretary of State considers that either:

- 319 (a) the London air quality strategy or its implementation is likely to be detrimental to any area outside Greater London<sup>12</sup>; or
- 320 (b) that a direction about the content of the London air quality strategy is required for the purposes of the implementation of the policies contained in the national air quality strategy<sup>13</sup>,

he may give the Mayor a direction about the content of the London air quality strategy<sup>14</sup>.

In exercising any function under Part IV of the Environment Act 1995<sup>15</sup>, a local authority in Greater London must have regard to the London air quality strategy<sup>16</sup>.

1 As to the Mayor of London see PARA 81 ante.

2 Greater London Authority Act 1999 s 362(1). See also ENVIRONMENTAL QUALITY AND PUBLIC HEALTH vol 45 (2010) PARA 193. For the general duties of the Mayor in relation to his strategies see PARAS 177-179 ante. As to the duty to revise the strategies see PARA 177 et seq ante. As to the publicity and availability of strategies see PARA 179 ante. In the Greater London Authority Act 1999, references to the London air quality strategy include, except where the context otherwise requires, a reference to the strategy as revised: s 362(7). Where the Mayor revises the London air quality strategy he must publish it as revised: s 362(6).

In preparing or revising the London air quality strategy the Mayor must have regard to: (1) reviews and assessments of air quality made by local authorities in Greater London in accordance with the Environment Act 1995 s 82 (see ENVIRONMENTAL QUALITY AND PUBLIC HEALTH vol 45 (2010) PARA 194) (Greater London Authority Act 1999 s 362(4)(a)); (2) any designation by a local authority in Greater London of an air quality management area in accordance with the Environment Act 1995 s 83 (see ENVIRONMENTAL QUALITY AND PUBLIC HEALTH vol 45 (2010)

PARA 195) (Greater London Authority Act 1999 s 362(4)(b)); (3) any plan prepared for the purposes of the achievement of air quality standards by a local authority in Greater London in accordance with the Environment Act 1995 s 84(2)(b) (see ENVIRONMENTAL QUALITY AND PUBLIC HEALTH vol 45 (2010) PARA 196) (Greater London Authority Act 1999 s 362(4)(c)); and (4) any guidance about the content of the London air quality strategy given to him by the Secretary of State for the purposes of the implementation of the strategy prepared and published by the Secretary of State in accordance with the Environment Act 1995 s 80 (see ENVIRONMENTAL QUALITY AND PUBLIC HEALTH vol 45 (2010) PARA 192) (Greater London Authority Act 1999 s 362(4)(d)). For the meaning of 'guidance' see PARA 96 note 2 ante. As to the Secretary of State see PARA 12 note 2 ante. The Mayor may give a direction to any local authority in Greater London requiring the authority to provide him with such information, advice and assistance as he may require in the preparation and revision of the London air quality strategy: s 365(1). The power of the Mayor to give such a direction may be exercised either generally or specially: s 365(2). Where the Mayor gives an authority such a direction the authority to whom the direction is given must comply with it: s 365(3). For the purposes of ss 362-365, 'local authority' means any unitary authority, any district council, so far as it is not a unitary authority, or the Common Council of the City of London and, as respects the Temples, the Sub-Treasurer of the Inner Temple and the Under Treasurer of the Middle Temple respectively: Environment Act 1995 s 91(1); applied by the Greater London Authority Act 1999 s 366. For these purposes, 'unitary authority' means the council of a county, so far as it is the council of an area for which there are no district councils, the council of any district comprised in an area for which there is no county council, the council of a London borough, or the council of a county borough in Wales: Environment Act 1995 s 91(1). As to the Common Council of the City of London see PARA 51 et seq ante. As to the Sub-Treasurer of the Inner Temple and the Under Treasurer of the Middle Temple see PARA 34 ante. As to the London boroughs and their councils see PARAS 30, 35-39, 59 et seq ante. As to Greater London see PARA 29 ante. As to local government areas and authorities generally see LOCAL GOVERNMENT vol 69 (2009) PARA 22 et seq.

In preparing or revising the London air quality strategy the Mayor must consult the Environment Agency (Greater London Authority Act 1999 s 362(5)(a)), and any local authority the area of which has a boundary which adjoins any part of the boundary of Greater London (s 362(5)(b)). As to the Environment Agency see ENVIRONMENTAL QUALITY AND PUBLIC HEALTH vol 45 (2010) PARA 68 et seq. As to consultation in connection with the preparation or revision of strategies see PARA 178 ante.

3 Ibid s 362(2)(a). The national air quality strategy is the strategy prepared and published by the Secretary of State in accordance with the Environment Act 1995 s 80: see ENVIRONMENTAL QUALITY AND PUBLIC HEALTH vol 45 (2010) PARA 192.

As to the proposals and policies of the Mayor with regard to air quality see further ENVIRONMENTAL QUALITY AND PUBLIC HEALTH vol 45 (2010) PARAS 199, 202.

4 Greater London Authority Act 1999 s 362(2)(b). The prescribed standards and objectives referred to in the text are those prescribed in the regulations made under the Environment Act 1995 s 87(2)(a), (b): see ENVIRONMENTAL QUALITY AND PUBLIC HEALTH vol 45 (2010) PARA 200.

5 Greater London Authority Act 1999 s 362(3)(a).

6 As to the establishment of the Greater London Authority see PARA 79 ante.

7 As to Transport for London see PARAS 218, 269 et seq post.

8 As to the London Development Agency see PARA 215 post; and TRADE AND INDUSTRY vol 97 (2010) PARA 988 et seq.

9 Greater London Authority Act 1999 s 362(3)(b).

10 Ibid s 362(3)(c).

11 Ibid s 362(2).

12 Ibid s 363(2)(a).

13 Ibid s 363(2)(b).

14 Ibid s 363(1)(b). The power of the Secretary of State to give a direction under s 363(1) may be exercised either generally or specially (s 363(3)(a)) and may only be exercised after consultation with the Mayor (s 363(3)(b)). Where the Secretary of State gives the Mayor such a direction the Mayor must comply with it: s 363(4). As to the giving of directions generally see PARA 13 ante. As to the reserve powers of the Secretary of State with regard to air quality see ENVIRONMENTAL QUALITY AND PUBLIC HEALTH vol 45 (2010) PARA 197.

15 Ie the Environment Act 1995 Pt IV (ss 80-91) (as amended): see ENVIRONMENTAL QUALITY AND PUBLIC HEALTH vol 45 (2010) PARA 192 et seq.

16 Greater London Authority Act 1999 s 364.

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/3. THE GREATER LONDON AUTHORITY/(5) FUNCTIONS AND POWERS/(iv) Environmental Functions/E. NOISE/186. The London ambient noise strategy.

## **E. NOISE**

### **186. The London ambient noise strategy.**

The Mayor of London<sup>1</sup> must prepare and publish a document, to be known as the 'London ambient noise strategy'<sup>2</sup>, which is to consist of:

- 321 (1) information about ambient noise<sup>3</sup> levels in Greater London<sup>4</sup> and the impact of such noise levels on those living and working in Greater London<sup>5</sup>;
- 322 (2) an assessment of the impact of the Mayor's strategies<sup>6</sup> on ambient noise levels in Greater London<sup>7</sup>; and
- 323 (3) a summary of action taken, or proposed to be taken, by the Mayor for the purpose of promoting measures to reduce ambient noise levels in Greater London and the impact of such noise levels on those living and working in Greater London<sup>8</sup>.

1 As to the Mayor of London see PARA 81 ante.

2 Greater London Authority Act 1999 s 370(1). For the general duties of the Mayor in relation to his strategies see PARAS 177-179 ante. As to the duty to revise the strategies see PARA 177 et seq ante. As to the publicity and availability of strategies see PARA 179 ante. In the Greater London Authority Act 1999, references to the London ambient noise strategy include, except where the context otherwise requires, a reference to the strategy as revised: s 370(8). Where the Mayor revises the London ambient noise strategy he must publish it as revised: s 370(7).

In preparing or revising the London ambient noise strategy the Mayor must consult the Environment Agency: s 370(6). As to the Environment Agency see ENVIRONMENTAL QUALITY AND PUBLIC HEALTH vol 45 (2010) PARA 68 et seq. As to consultation in connection with the preparation or revision of strategies see PARA 178 ante.

3 For the purposes of ibid s 370, 'noise' includes vibration: s 370(3). 'Ambient noise' means: (1) noise related to transport, including road traffic, rail traffic, aircraft and water transport (s 370(3)(a)); and (2) noise of such other descriptions as the Mayor may consider it appropriate to include in the matters dealt with by the London ambient noise strategy (s 370(3)(b)). It does not include:

- 46 (a) noise emitted from works falling within the Control of Pollution Act 1974 s 60(1) (construction works etc which may be controlled by a local authority: see ENVIRONMENTAL QUALITY AND PUBLIC HEALTH vol 46 (2010) PARA 835) (Greater London Authority Act 1999 s 370(4)(a));
- 47 (b) noise caused by the operation of a loud-speaker in a street, whether or not the operation would be a contravention of the Control of Pollution Act 1974 s 62(1) (as amended) (loud-speaker not to be operated in the street during certain hours: see ENVIRONMENTAL QUALITY AND PUBLIC HEALTH vol 46 (2010) PARA 841) (Greater London Authority Act 1999 s 370(4)(b));
- 48 (c) noise at work which, under or by virtue of the Health and Safety at Work etc Act 1974 (see HEALTH AND SAFETY AT WORK), it is the duty of an employer to control (Greater London Authority Act 1999 s 370(4)(c)); or
- 49 (d) noise emitted from premises or emitted from or caused by a vehicle, machinery or equipment in a street, except noise caused by aircraft other than model aircraft or noise made by traffic (s 370(4)(d)).

Noise is not, however, excluded under heads (a)-(d) supra if it is noise from a fixed industrial source: s 370(4). For these purposes, 'premises' includes land and any vessel (other than a vessel powered by steam reciprocating machinery); 'equipment' includes a musical instrument; and 'street' means a highway and any other public road, footway, square or court that is for the time being open to the public: Environmental Protection Act 1990 s 79(1), (12) (s 79(1) amended by the Noise and Statutory Nuisance Act 1993 s 2(4)); Greater London Authority Act 1999 s 370(5).

4 As to Greater London see PARA 29 ante.

5 Greater London Authority Act 1999 s 370(2)(a).

6 The strategies referred to in the text are the strategies specified in *ibid* s 41(1) (see PARA 177 ante), ie the London ambient noise strategy, the spatial development strategy (see PARAS 189-195 post), the transport strategy (see PARAS 197, 262-268 post), the London Development Agency strategy (see PARA 196 post), the London Biodiversity Action Plan (see PARA 181 ante), the municipal waste management strategy (see PARAS 182-184 ante), the London air quality strategy (see PARA 185 ante) and the culture strategy (see PARA 198 post).

7 *Ibid* s 370(2)(b).

8 *Ibid* s 370(2)(c).

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/3. THE GREATER LONDON AUTHORITY/(5) FUNCTIONS AND POWERS/(iv) Environmental Functions/E. NOISE/187. Consultation about aviation noise and other matters.

### **187. Consultation about aviation noise and other matters.**

A person who provides air navigation services<sup>1</sup> must, where it is reasonably practicable so to do, consult the Mayor of London<sup>2</sup> about<sup>3</sup>:

- 324 (1) the proposed alteration by that person of any route used regularly by civil aircraft<sup>4</sup> before arrival at, or after departure from, any aerodrome<sup>5</sup>;
- 325 (2) the proposed addition by that person of any route to be so used<sup>6</sup>;
- 326 (3) any substantial alteration proposed to be made by that person to procedures used for managing the arrival of civil aircraft at any aerodrome<sup>7</sup>,

where the proposed alteration or addition will have a significant adverse effect on the noise<sup>8</sup> caused by civil aircraft in Greater London<sup>9</sup>.

The person having the management of any designated aerodrome<sup>10</sup> must provide adequate facilities for the Mayor, acting on behalf of the Greater London Authority<sup>11</sup>, for consultation with respect to any matter concerning the manner or administration of the aerodrome which affects the Authority's interests<sup>12</sup>.

1 For the purposes of the Greater London Authority Act 1999 s 371, 'air navigation services' includes information, directions and other facilities furnished, issued or provided in connection with the navigation or movement of aircraft, and includes the control of movement of vehicles in any part of an aerodrome used for the movement of aircraft; and 'aerodrome' means any area of land or water designed, equipped, set apart or commonly used for affording facilities for the landing and departure of aircraft and includes any area or space, whether on the ground, on the roof of a building or elsewhere, which is designed, equipped or set apart for affording facilities for the landing and departure of aircraft capable of descending or climbing vertically: Civil Aviation Act 1982 s 105(1); Greater London Authority Act 1999 s 371(4).

2 As to the Mayor of London see PARA 81 ante.

3 Greater London Authority Act 1999 s 371(1).

4 For the purposes of *ibid* s 371(2), the reference in the text to a route used regularly by civil aircraft includes a reference to the altitude at which such aircraft regularly fly: s 371(3).

5 *Ibid* s 371(2)(a).

6 *Ibid* s 371(2)(b).

7 *Ibid* s 371(2)(c).

8 For the purposes of *ibid* s 371, 'noise' includes vibration: s 371(4).

9 *Ibid* s 371(2). As to Greater London see PARA 29 ante.

10 *Ie* any aerodrome designated by the Secretary of State for the purposes of the Civil Aviation Act 1982 s 35 (as amended): see AIR LAW vol 2 (2008) PARA 253. As to the Secretary of State see PARA 12 note 2 ante.

11 As to the establishment of the Greater London Authority see PARA 79 ante.

12 Civil Aviation Act 1982 s 35(1), (2)(b), (3) (s 35(1) amended by the Airports Act 1986 s 83(5), Sch 6 Pt II; and the Civil Aviation Act 1982 s 35(3) added by the Greater London Authority Act 1999 s 372).

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/3. THE GREATER LONDON AUTHORITY/(5) FUNCTIONS AND POWERS/(v) Planning Functions/A. GENERAL PLANNING FUNCTIONS/188. General planning functions of the Mayor of London.

## **(v) Planning Functions**

### **A. GENERAL PLANNING FUNCTIONS**

#### **188. General planning functions of the Mayor of London.**

It is the duty of the Mayor of London<sup>1</sup> to monitor the implementation of the spatial development strategy<sup>2</sup>, to monitor the unitary development plan<sup>3</sup> of each London borough council<sup>4</sup>, and to monitor, and collect information about, matters relevant to the preparation, review, alteration, replacement or implementation of the spatial development strategy<sup>5</sup>.

The Mayor must inform the local planning authorities for areas in the vicinity of Greater London<sup>6</sup>, any body on which those authorities are represented<sup>7</sup>, or any other body which the Mayor considers should be informed<sup>8</sup>, of his views concerning any matters of common interest, whether general or specific, relating to the planning or development of Greater London or those areas<sup>9</sup>. The Mayor may also inform those authorities, or any such body, of his views concerning any other matters, whether general or specific, relating to the planning or development of those areas<sup>10</sup>.

1 As to the Mayor of London see PARA 81 ante.

2 Greater London Authority Act 1999 s 346(a). As to the spatial development strategy and its implementation see PARAS 189-195 post.

3 As to unitary development plans see TOWN AND COUNTRY PLANNING vol 46(1) (Reissue) PARA 155.

4 Greater London Authority Act 1999 s 346(b). For the purposes of Pt VIII (ss 334-350) (as amended), the City of London is treated as if it were a London borough (s 350(2)(a)), the Common Council of the City of London is treated as if it were the council for a London borough (s 350(2)(b)), and the Inner Temple and the Middle Temple are treated as forming part of the City (s 350(2)(c)). As to the London boroughs and their councils see PARAS 30, 35-39, 59 et seq ante. As to the City of London see PARA 31 ante. As to the Common Council of the City of London see PARA 51 et seq ante. As to the Temples see PARA 32 ante.

5 Ibid s 346(c). As to the preparation, review, alteration, replacement and implementation of the spatial development strategy see PARAS 189-195 post.

6 Ibid s 348(1)(a). As to Greater London see PARA 29 ante. As to local planning authorities see TOWN AND COUNTRY PLANNING vol 46(1) (Reissue) PARA 28 et seq.

7 Ibid s 348(1)(b).

8 Ibid s 348(1)(c).

9 Ibid s 348(1). The Mayor must from time to time consult the London borough councils about the exercise of his functions under s 348 (s 348(3)) and may make contributions towards defraying the expenses of any body on which the Greater London Authority is represented for the purpose of facilitating the discharge of the Mayor's functions thereunder (s 348(4)). As to the establishment of the Greater London Authority see PARA 79 ante.

10 Ibid s 348(2).

## **UPDATE**

### **188 General planning functions of the Mayor of London**

TEXT AND NOTE 3--Reference to the unitary development plan is now to the local development documents (within the meaning of the Planning and Compulsory Purchase Act 2004 Pt 2 (ss 13-37): Greater London Authority Act 1999 s 346(b) (amended by the 2004 Act Sch 7 para 22(4)).



Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/3. THE GREATER LONDON AUTHORITY/(5) FUNCTIONS AND POWERS/(v) Planning Functions/B. SPATIAL DEVELOPMENT/189. The spatial development strategy.

## **B. SPATIAL DEVELOPMENT**

### **189. The spatial development strategy.**

The Mayor of London<sup>1</sup> is required to prepare and publish a document, to be known as the 'spatial development strategy'<sup>2</sup>, which must include:

- 327 (1) a statement formulating the Mayor's strategy for spatial development in Greater London<sup>3</sup>; and
- 328 (2) statements dealing with the general spatial development aspects of such of the other strategies prepared and published, or to be prepared and published<sup>4</sup>, as involve considerations of spatial development<sup>5</sup>, and such of the Mayor's other policies or proposals as involve such considerations<sup>6</sup>, whether or not the strategy, policy or proposal relates to the development or use of land<sup>7</sup>.

The spatial development strategy must deal only with matters which are of strategic importance to Greater London<sup>8</sup>, but may make different provision for different cases or for different parts of Greater London<sup>9</sup>. The Secretary of State may make regulations with respect to the form and content of the spatial development strategy<sup>10</sup>, the procedure to be followed in connection with the preparation of the strategy<sup>11</sup>, and the documents (if any) which he requires to accompany the strategy<sup>12</sup>. The strategy must contain such diagrams, illustrations or other descriptive or explanatory matter relating to its contents as may be prescribed<sup>13</sup>.

It is the duty of the Mayor to monitor the implementation of the strategy<sup>14</sup> and to monitor, and collect information about, matters relevant to the implementation of the strategy<sup>15</sup>.

1 As to the Mayor of London see PARA 81 ante. The functions of the joint planning committee for Greater London, which was established under the Local Government Act 1985 s 5 (repealed) and continued by the Town and Country Planning Act 1990 s 3 (prospectively repealed), have been superseded by the Mayor's functions relating to the preparation and implementation of the spatial development strategy, and the committee has been abolished: see the Greater London Authority Act 1999 s 349.

2 Ibid s 334(1). For the general duties of the Mayor in relation to his strategies see PARAS 177-179 ante. In the Greater London Authority Act 1999, references to the spatial development strategy include, except where the context otherwise requires, a reference to the spatial development strategy as altered (s 341(4)(a)) or a new spatial development strategy which replaces a previous strategy (s 341(4)(b)). As to the alteration and replacement of the strategy see PARA 195 post.

As to the conformity of unitary development plans with the strategy see the Town and Country Planning Act 1990 s 12, s 13, s 15, s 21A (as added), s 26, s 74 (as amended), s 322B (as added); the Town and Country Planning (London Spatial Development Strategy) Regulations 2000, SI 2000/1491, reg 13; and TOWN AND COUNTRY PLANNING.

In exercising in relation to the spatial development strategy any of his functions under the Greater London Authority Act 1999 ss 334-341 (as amended), the Mayor must have regard to: (1) the need to ensure that the strategy is consistent with national policies and with such international obligations as the Secretary of State may notify to the Mayor for these purposes (s 41(5)(a), (6)(c)); (2) the need to ensure that the strategy is consistent with each other strategy mentioned in s 41(1) (see PARA 177 ante) (s 41(5)(b), (6)(c)); (3) the resources available for implementation of the strategy (s 41(5)(c), (6)(c)); and (4) the desirability of promoting and encouraging the use of the River Thames safely, in particular for the provision of passenger transport services and for the transportation of freight (s 41(5)(d), (6)(c)). For the meaning of 'national policies' see PARA 177 note 16 ante. For the meaning of 'international obligations' see PARA 177 note 17 ante. For the meaning of 'notify' see PARA 83 note 10 ante. The other strategies mentioned in s 41(1) are: the transport strategy (see

PARAS 197, 262-268 post); the London Development Agency strategy (see PARA 196 post); the London Biodiversity Action Plan (see PARA 181 ante); the municipal waste management strategy (see PARAS 182-184 ante); the London air quality strategy (see PARA 185 ante); the London ambient noise strategy (see PARA 186 ante); and the culture strategy (see PARA 198 post).

In exercising his functions under ss 334-341 (as amended), the Mayor must also have regard to any regional planning guidance issued by the Secretary of State so far as relating to an area which includes or adjoins Greater London (s 342(1)(a)) and such other matters as the Secretary of State may prescribe by regulations (s 342(1)(a)). The matters to which the Mayor is to have regard by virtue of s 342(1) are in addition to the matters to which he is to have regard by virtue of s 41(4) (see PARA 177 ante): s 343(2). As to Greater London see PARA 29 ante. As to the Secretary of State see PARA 12 note 2 ante. As to the regulations made in pursuance of this power see the Town and Country Planning (London Spatial Development Strategy) Regulations 2000, SI 2000/1491. These provide that in formulating the strategy for spatial development in Greater London the Mayor must have regard to: (a) any statement which contains the Secretary of State's policies in relation to the recovery and disposal of waste in England and which is made under the Environmental Protection Act 1990 s 44A (as added) (see ENVIRONMENTAL QUALITY AND PUBLIC HEALTH vol 46 (2010) PARA 627) (Town and Country Planning (London Spatial Development Strategy) Regulations 2000, SI 2000/1491, reg 6(1)(a)); (b) the objectives of preventing major accidents and limiting the consequences of such accidents (reg 6(1)(b)); and (c) the need (i) in the long term, to maintain appropriate distances between establishments and residential areas, areas of public use and areas of particular natural sensitivity or interest (reg 6(1)(c)(i)); and (ii) in the case of existing establishments, for additional technical measures in accordance with EC Council Directive 96/82 (OJ L10, 14.1.97, p 13) on the control of major-accident hazards involving dangerous substances, art 5 (Town and Country Planning (London Spatial Development Strategy) Regulations 2000, SI 2000/1491, reg 6(1)(c)(ii)). Expressions appearing both in reg 6(1) and in EC Council Directive 96/82 (OJ L10, 14.1.97, p 13) have the same meaning as in that Directive: Town and Country Planning (London Spatial Development Strategy) Regulations 2000, SI 2000/1491, reg 6(2). Regulations under the Greater London Authority Act 1999 Pt VIII (ss 334-350) (as amended) may make different provision for different parts of Greater London: s 343(2). As to the making of regulations generally see PARA 13 ante.

3 Ibid s 334(2). For the purposes of Pt VIII (as amended), the Mayor's strategy for spatial development includes his general policies in respect of the development and use of land in Greater London: s 334(3).

4 Ie the other strategies prepared and published, or to be prepared and published, under the enactments mentioned in ibid s 41(1): see note 2 supra; and PARA 177 ante.

5 Ibid s 334(4)(a).

6 Ibid s 334(4)(b).

7 Ibid s 334(4).

8 Ibid s 334(5). In determining for the purposes of Pt VIII (as amended) whether a matter is of strategic importance to Greater London, it is immaterial whether or not the matter affects the whole area of Greater London: s 334(6).

9 Ibid s 334(8).

10 Ibid s 343(1)(a). As to the regulations made in pursuance of this power see the Town and Country Planning (London Spatial Development Strategy) Regulations 2000, SI 2000/1491. These provide that: (1) the title of the strategy must include the words 'spatial development strategy' (reg 3); (2) the strategy must contain a reasoned justification of the Mayor's strategy for spatial development in Greater London (regs 4(1), 6(3)); (3) those parts of the strategy which comprise the Mayor's strategy for spatial development in Greater London and those parts which comprise the reasoned justification required by reg 4(1) must be clearly identified in the strategy (reg 4(2)); and (4) where there is conflict between the written statement in the strategy formulating the Mayor's strategy for spatial development in Greater London and any other part of the strategy, the provisions of that statement prevail (reg 4(3)). Regulations under the Greater London Authority Act 1999 s 343 are without prejudice to any other provision of Pt VIII (as amended): s 343(1).

11 Ibid s 343(1)(c). At the date at which this volume states the law no such regulations had been made.

12 Ibid s 343(1)(b). As to the regulations made in pursuance of this power see the Town and Country Planning (London Spatial Development Strategy) Regulations 2000, SI 2000/1491. These provide that where a person makes a document available for inspection, it must be available at the time and place specified in any relevant notice published by that person under the regulations until the expiry of a period of six weeks beginning with the date of publication of a notice that the proposed strategy has been published or withdrawn: reg 11(2). A person making a document available for inspection under the regulations must, on request and on payment of any reasonable charge required by him, provide a copy of that document, as soon as reasonably practicable: reg 11(3).

13 Greater London Authority Act 1999 s 334(7). The reference in the text to diagrams is a reference to such diagrams etc as may be prescribed by regulations made by the Secretary of State: s 350(1). As to the regulations made in pursuance of this power see the Town and Country Planning (London Spatial Development Strategy) Regulations 2000, SI 2000/1491. These provide that the spatial development strategy must contain a diagram ('the key diagram') illustrating the Mayor's strategy for spatial development in Greater London (reg 5(1)) and a diagram ('an inset diagram'), drawn to a larger scale than the key diagram, and illustrating the application of the Mayor's general policies to part of the area covered by the strategy (reg 5(2)). Where an inset diagram is included in the strategy, the area covered by the inset diagram must be identified on the key diagram and the application of the general policies to that area must be illustrated on that inset diagram only: reg 5(3). No key diagram or inset diagram contained in the strategy may be on a map base: reg 5(4). The key diagram and any inset diagram must include an explanation of any symbol or notation used in the diagram: reg 5(5). The title of the strategy must be set out on the key diagram and on any inset diagram contained in the strategy: reg 5(5).

14 Greater London Authority Act 1999 s 346(a).

15 Ibid s 346(c).

## **UPDATE**

### **189 The spatial development strategy**

NOTE 2--Second reference to the Greater London Authority Act 1999 s 342(1)(a) should be to s 342(1)(b). Greater London Authority Act 1999 s 342(1)(a) substituted by the Planning and Compulsory Purchase Act 2004 Sch 7 para 22(3); and amended by the Local Democracy, Economic Development and Construction Act 2009 Sch 5 para 10. See also TOWN AND COUNTRY PLANNING vol 46(1) (Reissue) PARA 85A et seq.

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/3. THE GREATER LONDON AUTHORITY/(5) FUNCTIONS AND POWERS/(v) Planning Functions/B. SPATIAL DEVELOPMENT/190. Preparation of the spatial development strategy.

### **190. Preparation of the spatial development strategy.**

When preparing the spatial development strategy<sup>1</sup>, the Mayor of London<sup>2</sup> must prepare a draft of his proposals for the strategy<sup>3</sup>, make that draft available to the London Assembly<sup>4</sup> and the functional bodies<sup>5</sup>, and consult the Assembly and the functional bodies about the proposals<sup>6</sup>. After the consultation required<sup>7</sup> and before finally determining the contents of the strategy, the Mayor must:

- 329 (1) prepare a draft of his proposed strategy<sup>8</sup>;
- 330 (2) make copies available for inspection at such places as may be prescribed<sup>9</sup>;
- 331 (3) send a copy<sup>10</sup> to the Secretary of State<sup>11</sup>, every London borough council<sup>12</sup>, the council of any county or district whose area adjoins Greater London and is affected by the proposed strategy<sup>13</sup>, such other persons or bodies as may be prescribed<sup>14</sup>, and any other body to which, or person to whom, the Mayor considers it appropriate to send a copy<sup>15</sup>;
- 332 (4) comply with any requirements imposed by regulations<sup>16</sup>; and
- 333 (5) consider any representations made in accordance with the regulations<sup>17</sup>.

The Secretary of State may make regulations with respect to the procedure to be followed in connection with the preparation of the strategy<sup>18</sup>.

It is the duty of the Mayor to monitor, and collect information about, matters relevant to the preparation of the strategy<sup>19</sup>.

1 As to the spatial development strategy see PARA 189 ante.

2 As to the Mayor of London see PARA 81 ante. For the general duties of the Mayor in relation to his strategies see PARAS 177-179 ante. As to the matters to which the Mayor must have regard in exercising his functions under the Greater London Authority Act 1999 ss 335, 336 see PARA 189 note 2 ante.

3 Ibid s 335(1)(a).

4 As to the London Assembly see PARA 82 ante.

5 Greater London Authority Act 1999 s 335(1)(b). As to the functional bodies see PARAS 213-218 post.

6 Ibid s 335(1)(c).

7 Ie by ibid s 335(1)(c).

8 Ibid s 335(2)(a). The proposed strategy prepared under s 335(2)(a) may be withdrawn by the Mayor at any time before he publishes the strategy (see PARA 193 post): s 336(1). On the withdrawal of the proposed strategy, the Mayor must withdraw the copies made available for inspection in accordance with s 335 (see s 336(2)(a)) and give notice that the proposed strategy has been withdrawn to the London Assembly, each of the functional bodies, each of the bodies and persons specified in s 335(3) (see head (3) in the text), and every body which, or person who, made representations in accordance with the regulations (see head (5) in the text; and note 17 infra) (s 336(2)(b), (3)). For the meaning of 'notice' see PARA 83 note 10 ante. As to the London Assembly see PARA 82 ante. Section 336 does not affect the duty to prepare and publish a strategy in accordance with the provisions of Pt VIII (ss 334-350) (as amended): s 336(4). The Secretary of State may make regulations with respect to the procedure to be followed in connection with withdrawal of the strategy: s 343(1)(c). As to the Secretary of State see PARA 12 note 2 ante. As to the regulations made in pursuance of this power see the Town and Country Planning (London Spatial Development Strategy) Regulations 2000, SI 2000/1491. These provide that, on the withdrawal of the proposed strategy pursuant to the Greater London Authority Act

1999 s 336(1), the Mayor must give notice by advertisement: Town and Country Planning (London Spatial Development Strategy) Regulations 2000, SI 2000/1491, reg 10, Schedule Form 4. Regulations under the Greater London Authority Act 1999 s 343 are without prejudice to any other provision of Pt VIII (as amended): s 343(1). Regulations under Pt VIII (as amended) may make different provision for different parts of Greater London: s 343(2). As to the making of regulations generally see PARA 13 ante.

9 Ibid s 335(2)(b). The places referred to in the text are such places as may be prescribed by regulations made by the Secretary of State under s 343: ss 335(2)(b), 350(1). As to the regulations made in pursuance of this power see the Town and Country Planning (London Spatial Development Strategy) Regulations 2000, SI 2000/1491. These provide that: (1) the places at which the Mayor is required by the Greater London Authority Act 1999 s 335(2)(b) to make the proposed strategy available for inspection are the principal office of the Greater London Authority and such other places within Greater London as the Mayor considers appropriate (Town and Country Planning (London Spatial Development Strategy) Regulations 2000, SI 2000/1491, reg 7(1)); and (2) the Mayor must, as soon as reasonably practicable after he makes copies of the proposed strategy and of the sustainability appraisal (see note 16 infra) available for inspection pursuant to the Greater London Authority Act 1999 s 335(2)(b), give notice by advertisement (Town and Country Planning (London Spatial Development Strategy) Regulations 2000, SI 2000/1491, reg 7(4), Schedule Form 1). As to the establishment of the Greater London Authority see PARA 79 ante. As to Greater London see PARA 29 ante. 'By advertisement' means by publication in the London Gazette and by local advertisement, and 'by local advertisement' means by publication on at least one occasion in two successive weeks in a newspaper circulating in Greater London: reg 2(1).

Each copy made available for inspection under the Greater London Authority Act 1999 s 335(2) must be accompanied by a statement of the prescribed period within which representations may be made to the Mayor (see note 17 infra): s 335(5). As to the making of documents available for inspection see also PARA 189 note 12 ante.

10 Ibid s 335(2)(c). Each copy sent under s 335(2) must be accompanied by a statement of the prescribed period within which representations may be made to the Mayor (see note 17 infra): s 335(5).

11 Ibid s 335(3)(a).

12 Ibid s 335(3)(b). As to the London boroughs for the purposes of Pt VIII (as amended) see PARA 188 note 4 ante.

13 Ibid s 335(3)(c).

14 Ibid s 335(3)(d). The reference in the text to other persons or bodies is a reference to such other persons or bodies as may be prescribed by regulations made by the Secretary of State under s 343: s 350(1). As to the regulations made in pursuance of this power see the Town and Country Planning (London Spatial Development Strategy) Regulations 2000, SI 2000/1491. These provide that the Mayor must send a copy of the proposed strategy to the Countryside Agency, English Nature, the Environment Agency, and the Historic Buildings and Monuments Commission for England: reg 7(5) (amended by the Countryside and Rights of Way Act 2000 s 73(2)). As to the Countryside Agency (formerly the Countryside Commission) see OPEN SPACES AND COUNTRYSIDE vol 78 (2010) PARA 523. As to English Nature see OPEN SPACES AND COUNTRYSIDE vol 78 (2010) PARA 523. As to the Environment Agency see ENVIRONMENTAL QUALITY AND PUBLIC HEALTH vol 45 (2010) PARA 68 et seq. As to the Historic Buildings and Monuments Commission for England see NATIONAL CULTURAL HERITAGE vol 77 (2010) PARA 803 et seq.

15 Greater London Authority Act 1999 s 335(3)(e). In determining the bodies to which or persons to whom it is appropriate to send a copy of the strategy under s 335(3)(e) (if any), the bodies to which and the persons to whom the Mayor considers sending a copy must include voluntary bodies some or all of whose activities benefit the whole or part of Greater London (ss 32(3)(a), 335(4)), bodies which represent the interests of different racial, ethnic or national groups in Greater London (ss 32(3)(b), 335(4)), bodies which represent the interests of different religious groups in Greater London (ss 32(3)(c), 335(4)) and bodies which represent the interests of persons carrying on business in Greater London (ss 32(3)(d), 335(4)).

16 Ibid s 335(2)(d). The reference in the text to regulations is a reference to regulations made by the Secretary of State under s 343: s 350(1). As to the regulations made in pursuance of this power see the Town and Country Planning (London Spatial Development Strategy) Regulations 2000, SI 2000/1491. These provide that the proposed strategy must be accompanied by an appraisal (a 'sustainability appraisal') of how it contributes towards the achievement of sustainable development: see reg 7(2).

17 Greater London Authority Act 1999 s 335(2)(e). In Pt VIII (as amended), except where the context otherwise requires, 'representations made in accordance with the regulations' means representations made in accordance with regulations made under s 343 and within the prescribed period: see ss 335(7), 350(1). As to the regulations made under s 343 see the Town and Country Planning (London Spatial Development Strategy) Regulations 2000, SI 2000/1491. A representation is made in accordance with those regulations if it is made in writing and addressed to the Mayor at the address indicated in the notice published pursuant to reg 7(4) (see note 9 supra): reg 7(9). The persons who may make representations in accordance with the regulations include,

in particular, the bodies and persons specified in head (3) in the text: Greater London Authority Act 1999 s 335(6).

The 'prescribed period' means such period as may be prescribed by, or determined in accordance with, regulations made under s 343: s 335(8). The period that has been prescribed for these purposes is a period of not less than 12 weeks ending on such date as the Mayor specifies in the notice published pursuant to the Town and Country Planning (London Spatial Development Strategy) Regulations 2000, SI 2000/1491 reg 7(4) (see note 9 supra): reg 7(6). However, where the Mayor makes available (pursuant to the Greater London Authority Act 1999 s 335(2)(b); see the text and note 9 supra) proposed alterations to the strategy which in the Mayor's opinion constitute minor alterations, the prescribed period for these purposes is a period of not less than 6 weeks ending on such date as the Mayor specifies in the notice published pursuant to the Town and Country Planning (London Spatial Development Strategy) Regulations 2000, SI 2000/1491, reg 7(4): reg 7(7). The period in reg 7(6) and reg 7(7) begins with the date on which a notice given pursuant to reg 7(4) is first published in a newspaper: reg 7(8). See also note 18 infra.

18 Greater London Authority Act 1999 s 343(1)(c). As to the regulations made in pursuance of this power see the Town and Country Planning (London Spatial Development Strategy) Regulations 2000, SI 2000/1491. These provide that: (1) the local planning authority for each London borough must make available for inspection at its principal office and during such period as is specified in the advertisement published pursuant to reg 7(4) a copy of the proposed strategy and of the sustainability appraisal (see note 9 supra), and that the Mayor must give to each authority such notice and such documents as they require in order to comply with this provision (reg 7(3)); (2) the Mayor must, from the date referred to in reg 7(6) (see note 17 supra) until the proposed strategy is published or withdrawn, make available for inspection at the principal office of the Greater London Authority a copy of all representations made in accordance with the regulations (reg 7(10)); and (3) the Mayor is not required to have regard to any representation made in respect of the strategy after the date specified in the notice published pursuant to reg 7(4) (reg 7(11)). As to the making of documents available for inspection see also PARA 189 note 12 ante.

19 Greater London Authority Act 1999 s 346(c).

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### **191. Examination of the spatial development strategy.**

Before publishing the spatial development strategy<sup>1</sup>, the Mayor of London<sup>2</sup> must, unless the Secretary of State<sup>3</sup> otherwise directs, cause an examination in public to be held<sup>4</sup>. An examination in public must be conducted by a person or persons appointed by the Secretary of State for the purpose<sup>5</sup>, and that person or persons must make a report to the Mayor<sup>6</sup>. The matters examined at an examination in public are such matters affecting the consideration of the strategy as the person or persons conducting the examination may consider ought to be so examined<sup>7</sup>. The Mayor and any person invited to do so by the person or persons conducting the examination may take part in an examination in public<sup>8</sup>. No person has a right to be heard at an examination in public<sup>9</sup>. The Secretary of State may, after consultation with the Lord Chancellor, make regulations with respect to the procedure to be followed at an examination in public<sup>10</sup>.

1 As to the spatial development strategy see PARA 189 ante. As to the publication of the strategy see PARA 193 post.

2 As to the Mayor of London see PARA 81 ante. For the general duties of the Mayor in relation to his strategies see PARAS 177-179 ante. As to the matters to which the Mayor must have regard in exercising his functions under the Greater London Authority Act 1999 s 338 see PARA 189 note 2 ante.

3 As to the Secretary of State see PARA 12 note 2 ante.

4 Greater London Authority Act 1999 s 338(1). An examination in public constitutes a statutory inquiry for the purposes of the Tribunals and Inquiries Act 1992 s 1(1)(c) (administration provisions involving the holding of a statutory inquiry: see ADMINISTRATIVE LAW vol 1(1) (2001 Reissue) PARAS 15, 56) (Greater London Authority Act 1999 s 338(2), (10)(a)) but does not constitute such an inquiry for any other purpose of the Tribunals and Inquiries Act 1992 (Greater London Authority Act 1999 s 338(2), (10)(b)). The Greater London Authority must defray the costs (additional to fees and expenses) of holding an examination in public: s 338(2), (9)(b). As to the establishment of the Greater London Authority see PARA 79 ante. As to the giving of directions see PARA 13 ante.

5 Ibid s 338(2), (3). The Authority must defray the fees and expenses of the person appointed to conduct an examination in public: s 338(2), (9)(a).

6 Ibid s 338(2), (5).

7 Ibid s 338(2), (4).

8 Ibid s 338(2), (7).

9 Ibid s 338(2), (6).

10 Ibid s 338(2), (8). As to the regulations made in pursuance of this power see the Town and Country Planning (London Spatial Development Strategy) Regulations 2000, SI 2000/1491. These provide that: (1) the Mayor must, as soon as reasonably practicable after the Secretary of State has appointed a person or persons ('the panel') pursuant to the Greater London Authority Act 1999 s 338(2), (3) (see the text and note 5 supra) to conduct the examination in public, send to the panel a copy of all representations made in accordance with the Town and Country Planning (London Spatial Development Strategy) Regulations 2000, SI 2000/1491 (see PARA 190 ante) (reg 8(1)); (2) the panel must, not later than 12 weeks before the opening of the examination in public, and after consulting the Mayor (a) make available for inspection, at those places at which the proposed strategy was made available for inspection a draft list of the matters to be examined at the examination in public, and the persons who will be invited to take part in the examination in public (reg 8(2)(a)); (b) give notice by advertisement (reg 8(2)(b), Schedule Form 2); and (c) send to the Secretary of State a copy of the notice so published (reg 8(2)(c)); (3) representations on the draft list referred to in reg 8(2)(a) may be made in writing to the person and at the address indicated in the notice published pursuant to reg 8(2)(b), within 28 days of the date on which that notice is first published in a newspaper (reg 8(3)); (4) the panel must, not later than 6 weeks before the opening of the examination in public, and after consulting the Mayor (a) notify those persons who are

invited to take part of the matters to be examined (reg 8(4)(a)); (b) make available for inspection, at those places at which the draft list referred to in reg 8(2)(a) was made available for inspection, a list of the matters to be examined at the examination in public and the persons who will be invited to take part in the examination in public (reg 8(4)(b)); and (c) give notice by advertisement of the places and times at which the lists mentioned in reg 8(4)(b) will be available for inspection (reg 8(4)(c)(i)), the address where the examination in public is to be held (reg 8(4)(c)(ii)), the dates of the examination in public (reg 8(4)(c)(iii)), and the name or title of the officer to whom and the address to which written submissions on the matters to be examined at the examination in public should be sent (reg 8(4)(c)(iv)); (5) written submissions may be made on the matters to be examined at the examination in public to the person at the address indicated in the notices published pursuant to reg 8(2)(b) and reg 8(4)(c) (reg 8(5)); (6) the panel must not be required to consider a written submission from any person unless the written submission concerns one or more matters to be examined at the examination in public (reg 8(6)(a)), the written submission is shorter than 2000 words in length (reg 8(6)(b)), and the panel has received no later than 3 weeks before the opening of the examination in public such number of copies of the submission as the panel may reasonably require in order to send a copy of that submission to each person invited to take part in the examination in public (reg 8(6)(c)); (7) the report of the panel must be in writing (reg 8(7)); (8) at the same time as the panel sends a copy of that report to the Mayor it must send a copy to the Secretary of State (reg 8(8)); and (9) the Mayor must, before the expiry of a period of 8 weeks beginning with the day he receives that report, make the report available for inspection at those places at which the proposed strategy was made available for inspection (reg 8(9)(a)) and send a copy of the report to the council for each London borough (reg 8(9)(b)). As to the making of documents available for inspection see also PARA 189 note 12 ante. For the meaning of 'by advertisement' see PARA 190 note 9 ante. For the meaning of 'notice' see PARA 83 note 10 ante. As to the London boroughs for the purposes of Pt VIII (ss 334-350) (as amended) see PARA 188 note 4 ante. Regulations under Pt VIII (as amended) may make different provision for different parts of Greater London: s 343(2). As to the making of regulations generally see PARA 13 ante.

## **UPDATE**

### **191 Examination of the spatial development strategy**

NOTE 4--An examination in public will constitute a statutory inquiry for the purposes of the Tribunals, Courts and Enforcement Act 2007 Sch 7 (Administrative Justice and Tribunals Council): 1999 Act s 338(10) (substituted by 2007 Act Sch 8 para 52).



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## **192. Pre-publication modification of the spatial development strategy.**

If at any time it appears to the Secretary of State<sup>1</sup> that it is expedient to do so for the purpose of avoiding any inconsistency with current national policies<sup>2</sup> or relevant regional planning guidance<sup>3</sup>, or any detriment to the interests of an area outside Greater London<sup>4</sup>, he may give a direction<sup>5</sup> to the Mayor of London<sup>6</sup> not to publish the spatial development strategy<sup>7</sup> except in a form which includes modifications to the proposed strategy in such respects as are indicated in the direction<sup>8</sup>, in order to remove any such inconsistency<sup>9</sup> or avoid any such detriment<sup>10</sup>. Such a direction may be given at any time before the Mayor has published the strategy<sup>11</sup>. Where such a direction is given, the Mayor must not publish the strategy unless he satisfies the Secretary of State that he has made the modifications necessary to conform with the direction<sup>12</sup> or the direction is withdrawn<sup>13</sup>.

1 As to the Secretary of State see PARA 12 note 2 ante.

2 For the meaning of 'national policies' see PARA 177 note 16 ante.

3 Greater London Authority Act 1999 s 337(6)(a) (amended by the Greater London Authority (Miscellaneous Amendments) Order 2000, SI 2000/1435, art 2, Schedule paras 1, 8). 'Relevant regional planning guidance' means any regional planning guidance issued by the Secretary of State so far as relating to an area which includes or adjoins Greater London: Greater London Authority Act 1999 s 337(10). As to Greater London see PARA 29 ante.

4 Ibid s 337(6)(b).

5 As to the giving of directions generally see PARA 13 ante.

6 Greater London Authority Act 1999 s 337(6). As to the Mayor of London see PARA 81 ante. As to the matters to which the Mayor must have regard in exercising his functions under s 337 see PARA 189 note 2 ante.

7 As to the spatial development strategy see PARA 189 ante. For the general duties of the Mayor in relation to his strategies see PARAS 177-179 ante.

8 Greater London Authority Act 1999 s 337(7).

9 Ibid s 337(7)(a).

10 Ibid s 337(7)(b).

11 Ibid s 337(6). As to the publication of the strategy see PARA 193 post.

12 Ibid s 337(8)(a).

13 Ibid s 337(8)(b).

## **UPDATE**

### **192 Pre-publication modification of the spatial development strategy**

TEXT AND NOTE 3--For 'relevant regional planning guidance' read 'the regional spatial strategy for a region which adjoins Greater London': Greater London Authority Act 1999 s 337(6)(a) (amended by the Planning and Compulsory Purchase Act 2004 Sch 7 para 22(2)(a)).

NOTE 3--1999 Act s 337(10) repealed: 2004 Act Sch 7 para 22(2)(b).

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### **193. Publication and operation of the spatial development strategy.**

The Mayor of London<sup>1</sup> may publish the spatial development strategy<sup>2</sup>. The strategy becomes operative on the date on which it is published by the Mayor<sup>3</sup>. The strategy so published must be in the form of the proposed strategy<sup>4</sup>, either as originally prepared or as modified to take account of: (1) any representations made in accordance with the regulations<sup>5</sup>; (2) any direction requiring modifications to the strategy given<sup>6</sup> and not withdrawn<sup>7</sup>; (3) any report arising from an examination in public<sup>8</sup> made by a person conducting the examination<sup>9</sup>; or (4) any other material considerations<sup>10</sup>.

The Mayor may not publish the strategy until after he has considered any representations made in accordance with the regulations<sup>11</sup> or, if no such representations are made, the expiry of the prescribed period<sup>12</sup>. In either case, if an examination in public is to be held<sup>13</sup>, the strategy must not be published until after the report of the person or persons conducting the examination has been made to the Mayor<sup>14</sup>.

The Mayor must send to the Common Council of the City of London<sup>15</sup> and to each London borough council<sup>16</sup> a copy of the current version<sup>17</sup> of the strategy<sup>18</sup>. Such a copy must be kept available by the Mayor for inspection by any person on request free of charge at the principal offices of the Greater London Authority<sup>19</sup>, and at such other places as the Mayor considers appropriate, at reasonable hours<sup>20</sup>. A copy of the current version of the strategy, or any part of it, must be supplied to any person on request for such reasonable fee as the Mayor may determine<sup>21</sup>.

The Secretary of State may make regulations with respect to the procedure to be followed in connection with the publication of the strategy<sup>22</sup>, which may include provision prohibiting publication of the strategy until such further procedures as may be prescribed<sup>23</sup> have been complied with<sup>24</sup>.

1 As to the Mayor of London see PARA 81 ante. As to the matters to which the Mayor must have regard in exercising his functions under the Greater London Authority Act 1999 s 337 see PARA 189 note 2 ante.

2 Ibid s 337(1). This provision is subject to s 337(2)-(11): see the text and notes 3-24 infra; and PARA 192 ante. As to the spatial development strategy see PARA 189 ante. As to the pre-publication examination of the strategy see PARA 191 ante. For the general duties of the Mayor in relation to his strategies see PARAS 177-179 ante.

3 Ibid s 337(9). This is subject to ss 338-350.

4 Ie the proposed strategy under ibid s 335(2)(a): see PARA 190 ante.

5 Ibid s 337(2)(a). For the meaning of 'representations made in accordance with the regulations' see PARA 190 note 17 ante. 'Regulations' means regulations made by the Secretary of State: s 350(1). As to the Secretary of State see PARA 12 note 2 ante. Section 337(2) is subject to s 337(4)-(11) (see the text and notes 11-24 infra; and PARA 192 ante): s 337(3).

6 Ie any direction given under ibid s 337(7): see PARA 192 ante. As to the giving of directions see PARA 13 ante.

7 Ibid s 337(2)(b). See note 5 supra.

8 Ie any report given under ibid s 338: see PARA 191 ante.

9 Ibid s 337(2)(c). See note 5 supra.

10 Ibid s 337(2)(d). See note 5 supra.

11 Ibid s 337(4)(a).

12 Ibid s 337(4)(b). 'The prescribed period' means such period as may be prescribed by, or determined in accordance with, regulations made under s 343: ss 337(11), 350(1). As to the regulations made in pursuance of this power see the Town and Country Planning (London Spatial Development Strategy) Regulations 2000, SI 2000/1491. These provide that the prescribed period for the purposes of the Greater London Authority Act 1999 s 337(4)(b) is the relevant period determined in accordance with the Town and Country Planning (London Spatial Development Strategy) Regulations 2000, SI 2000/1491, reg 7(6)-(8) (see PARA 190 note 17 ante): reg 9(1). Regulations under the Greater London Authority Act 1999 Pt VIII (ss 334-350) (as amended) may make different provision for different parts of Greater London: s 343(2). As to the making of regulations generally see PARA 13 ante.

13 Ie under ibid s 338: see PARA 191 ante.

14 Ibid s 337(4).

15 As to the Common Council of the City of London see PARA 51 et seq ante.

16 As to the London boroughs for the purposes of Pt VIII (as amended) see PARA 188 note 4 ante.

17 Any reference in ibid s 43 to 'the current version' of the spatial development strategy or a part of it is a reference to the strategy as last published, whether originally or by way of replacement, and to any published alteration of it for the time being having effect: s 43(5)(a).

18 Ibid s 43(2).

19 As to the establishment of the Greater London Authority see PARA 79 ante.

20 Greater London Authority Act 1999 s 43(3).

21 Ibid s 43(4).

22 Ibid s 343(1)(c). As to the regulations made in pursuance of this power see the Town and Country Planning (London Spatial Development Strategy) Regulations 2000, SI 2000/1491. These provide that when the Mayor publishes the strategy he must: (1) give notice by advertisement (reg 9(3)(a), Schedule Form 3); (2) serve notice in similar form on the persons specified in the Greater London Authority Act 1999 s 335(3)(c), (d) (see PARA 190 ante) (Town and Country Planning (London Spatial Development Strategy) Regulations 2000, SI 2000/1491, reg 9(3)(b)); (3) make available for inspection at those places at which the proposed strategy was made available for public inspection (see PARA 190 ante) a copy of the strategy (reg 9(3)(c)(i)), a copy of any direction given by the Secretary of State under the Greater London Authority Act 1999 s 337(7) (see PARA 192 ante) (Town and Country Planning (London Spatial Development Strategy) Regulations 2000, SI 2000/1491, reg 9(3)(c)(ii)), a copy of any written statement of the Secretary of State indicating for the purposes of the Greater London Authority Act 1999 s 337(8)(a) (see PARA 192 ante) that the Mayor has satisfied the Secretary of State that the Mayor has made the modifications to the proposed strategy necessary to conform with any such direction (Town and Country Planning (London Spatial Development Strategy) Regulations 2000, SI 2000/1491, reg 9(3)(c)(iii)), and, where the Mayor has not accepted any recommendation contained in the report of the panel, a statement of his reason for not accepting that recommendation (reg 9(3)(c)(iv)); and (4) send to the Secretary of State and to the council for each London borough a copy of the strategy, the notice published pursuant to reg 9(3)(a), and any statement of reasons prepared pursuant to reg 9(3)(c)(iv) (reg 9(3)(d)). As soon as reasonably practicable after the Mayor has published the spatial development strategy under the Greater London Authority Act 1999 s 337(1) (see the text and notes 1-2 supra), he must secure that printed copies of the strategy are made available for inspection during normal office hours at the principal office of the Greater London Authority and, on payment of any reasonable fee required by the Mayor, for purchase: Town and Country Planning (London Spatial Development Strategy) Regulations 2000, SI 2000/1491, reg 12(1). The Mayor must continue to make printed copies of the strategy available for public inspection and purchase under reg 12(1) until the strategy is altered or replaced (see PARA 195 post): reg 12(2). A copy of the strategy made available for inspection under reg 9(3)(d) must remain so available until printed copies of the strategy are made available for inspection under reg 12: reg 11(4). As to the making of documents available for inspection see also PARA 189 note 12 ante. For the meaning of 'notice' see PARA 83 note 10 ante. Regulations under the Greater London Authority Act 1999 s 343 are without prejudice to any other provision of Pt VIII (as amended): s 343(1).

23 Ie prescribed by the regulations: ibid s 350(1).

24 Ibid s 337(5). As to the regulations made in pursuance of this power see the Town and Country Planning (London Spatial Development Strategy) Regulations 2000, SI 2000/1491. These provide that the Mayor may not

publish the strategy unless: (1) he has sent to the Secretary of State a statement of his intention to publish the strategy (reg 9(2)(a)(i)), a copy of the strategy which he intends to publish (reg 9(2)(a)(ii)), and, where he proposes not to accept any recommendation contained in the report of the panel, a statement of his reasons for not accepting that recommendation (reg 9(2)(a)(iii)); and (2) a period of six weeks, or such longer period as the Secretary of State in writing requires, has elapsed beginning with the date notified to the Mayor in writing by the Secretary of State as the date he received the latest of those statements and that copy (reg 9(2)(b)).

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/3. THE GREATER LONDON AUTHORITY/(5) FUNCTIONS AND POWERS/(v) Planning Functions/B. SPATIAL DEVELOPMENT/194. Review of the spatial development strategy and associated matters.

#### **194. Review of the spatial development strategy and associated matters.**

The Mayor of London<sup>1</sup> is under a duty to review the spatial development strategy<sup>2</sup> from time to time<sup>3</sup> and must, if the Secretary of State<sup>4</sup> so directs<sup>5</sup> and within such time as the Secretary of State may specify in the direction, review the strategy or such part of it as may be specified in the direction<sup>6</sup>. The Mayor must also keep under review the matters which may be expected to affect the development of Greater London<sup>7</sup> or the planning of its development or which are otherwise relevant to the content of the strategy<sup>8</sup>.

It is the duty of the Mayor to monitor, and collect information about, matters relevant to the review of the strategy<sup>9</sup>.

The Secretary of State may make regulations with respect to the procedure to be followed with respect to the review of the strategy or any review of associated matters<sup>10</sup>.

1 As to the Mayor of London see PARA 81 ante. As to the matters to which the Mayor must have regard in exercising his functions under the Greater London Authority Act 1999 ss 339, 340 see PARA 189 note 2 ante.

2 As to the spatial development strategy see PARA 189 ante. For the general duties of the Mayor in relation to his strategies see PARAS 177-179 ante.

3 Greater London Authority Act 1999 s 340(1).

4 As to the Secretary of State see PARA 12 note 2 ante.

5 As to the giving of directions generally see PARA 13 ante.

6 Greater London Authority Act 1999 s 340(2).

7 As to Greater London see PARA 29 ante.

8 Greater London Authority Act 1999 s 339(1). For the purpose of discharging his functions under s 339(1) of keeping under review any matters relating to the area of a local planning authority outside Greater London, the Mayor must consult that local planning authority about those matters: s 339(2). As to local planning authorities see TOWN AND COUNTRY PLANNING vol 46(1) (Reissue) PARA 28 et seq.

9 Ibid s 346(c).

10 Ibid s 343(1)(c). 'Regulations' means regulations made by the Secretary of State: s 350(1). As to the regulations made in pursuance of this power see the Town and Country Planning (London Spatial Development Strategy) Regulations 2000, SI 2000/1491. These provide that the Mayor must make available for public inspection at the principal office of the Greater London Authority any direction given by the Secretary of State under the Greater London Authority Act 1999 s 340(2) (see the text and notes 4-6 supra): Town and Country Planning (London Spatial Development Strategy) Regulations 2000, SI 2000/1491, reg 11(1)(a). As to the making of documents available for inspection see also PARA 189 note 12 ante. Regulations under the Greater London Authority Act 1999 Pt VIII (ss 334-350) (as amended) may make different provision for different parts of Greater London: s 343(2). Regulations under s 343 are without prejudice to any other provision of Pt VIII (as amended): s 343(1). As to the making of regulations generally see PARA 13 ante.

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/3. THE GREATER LONDON AUTHORITY/(5) FUNCTIONS AND POWERS/(v) Planning Functions/B. SPATIAL DEVELOPMENT/195. Alteration or replacement of the spatial development strategy.

### **195. Alteration or replacement of the spatial development strategy.**

The Mayor of London<sup>1</sup> may at any time prepare and publish alterations of the spatial development strategy<sup>2</sup> or a new spatial development strategy to replace it<sup>3</sup>, and must, if the Secretary of State<sup>4</sup> so directs<sup>5</sup> and within such time as the Secretary of State may specify in the direction, prepare and publish such alterations of the strategy as the Secretary of State directs<sup>6</sup> or a new spatial development strategy to replace it<sup>7</sup>. It is the duty of the Mayor to monitor, and collect information about, matters relevant to the alteration and replacement of the strategy<sup>8</sup>.

The Secretary of State may make regulations with respect to the procedure to be followed with respect to the alteration or replacement of the strategy<sup>9</sup>.

1 As to the Mayor of London see PARA 81 ante. As to the matters to which the Mayor must have regard in exercising his functions under the Greater London Authority Act 1999 s 341 see PARA 189 note 2 ante.

2 Ibid s 341(1)(a). As to the spatial development strategy see PARA 189 ante. For the general duties of the Mayor in relation to his strategies see PARAS 177-179 ante.

The provisions of Pt VIII (ss 334-350) (as amended) apply in relation to the preparation and publication of alterations of the strategy, or a new strategy to replace it, as they apply in relation to the preparation and publication of the strategy, and apply in relation to the altered or new strategy as they apply in relation to the strategy (s 341(3)), and the Town and Country Planning (London Spatial Development Strategy) Regulations 2000, SI 2000/1491 (see PARAS 189-194 ante) apply in relation to proposals to alter or replace the strategy as they apply in relation to a proposed strategy (reg 2(2)).

3 Greater London Authority Act 1999 s 341(1)(b). See note 2 supra.

4 As to the Secretary of State see PARA 12 note 2 ante.

5 As to the giving of directions generally see PARA 13 ante.

6 Greater London Authority Act 1999 s 341(2)(a).

7 Ibid s 341(2)(b).

8 Ibid s 346(c).

9 Ibid s 343(1)(c). 'Regulations' means regulations made by the Secretary of State: s 350(1). As to the regulations made in pursuance of this power see the Town and Country Planning (London Spatial Development Strategy) Regulations 2000, SI 2000/1491. These provide that the Mayor must make available for public inspection at the principal office of the Greater London Authority any direction given by the Secretary of State under the Greater London Authority Act 1999 s 341(2) (see the text and notes 4-7 supra); Town and Country Planning (London Spatial Development Strategy) Regulations 2000, SI 2000/1491, reg 11(1)(b). As to the making of documents available for inspection see also PARA 189 note 12 ante. Regulations under the Greater London Authority Act 1999 Pt VIII (as amended) may make different provision for different parts of Greater London: s 343(2). Regulations under s 343 are without prejudice to any other provision of Pt VIII (as amended): s 343(1). As to the making of regulations generally see PARA 13 ante. As to the establishment of the Greater London Authority see PARA 79 ante. As to Greater London see PARA 29 ante.

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/3. THE GREATER LONDON AUTHORITY/(5) FUNCTIONS AND POWERS/(v) Planning Functions/C. LONDON DEVELOPMENT/196. The London Development Agency strategy.

### **C. LONDON DEVELOPMENT**

#### **196. The London Development Agency strategy.**

The Mayor of London<sup>1</sup> must prepare and publish a document to be known as the 'London Development Agency strategy'<sup>2</sup>. The Secretary of State<sup>3</sup> may give guidance<sup>4</sup> to the Mayor about the exercise of his functions in relation to the strategy with respect to: (1) the matters to be covered by that strategy or that strategy as revised<sup>5</sup>; and (2) the issues to be taken into account in preparing or revising that strategy<sup>6</sup>. Where the Secretary of State considers that the strategy (or any part of it) is inconsistent with national policies<sup>7</sup>, or that the strategy or its implementation is having, or is likely to have, a detrimental effect on any area outside Greater London<sup>8</sup>, he may direct<sup>9</sup> the Mayor to make such revisions of the strategy as may be specified in the direction in order to remove the inconsistency or, as the case may be, the detrimental effect or likely detrimental effect<sup>10</sup>.

1 As to the Mayor of London see PARA 81 ante.

2 Regional Development Agencies Act 1998 s 7A(2) (s 7A added by the Greater London Authority Act 1999 s 306(2)). For the general duties of the Mayor in relation to his strategies see PARAS 177-179 ante. As to the duty to revise the strategies see PARA 177 et seq ante. As to the publicity and availability of strategies see PARA 179 ante.

Before publishing the London Development Agency strategy the Mayor must consult: (1) the persons whom he is required to consult by virtue of the Greater London Authority Act 1999 s 42 (see PARA 178 ante) (Regional Development Agencies Act 1998 s 7A(8)(a) (as so added)); and (2) such persons as appear to him to represent employers and employees in the Agency's area (ss 2(3)(b), (c), 7A(8)(b) (s 7A(8)(b) as so added)). The area of the London Development Agency is Greater London: s 1, Sch 1. As to Greater London see PARA 29 ante. As to consultation in connection with the preparation or revision of strategies see PARA 178 ante.

The strategy published under s 7A(2) must be the draft strategy formulated and submitted to the Mayor by the Agency under s 7A(1) (as added), with such modifications (if any) as the Mayor considers appropriate: s 7A(3) (as so added). The strategy must be prepared and published by the Mayor as soon as reasonably practicable after the draft strategy has been submitted: s 7A(2) (as so added). The Agency must keep the strategy under review and may submit proposed revisions of it to the Mayor: see s 7A(4) (as so added). The Mayor may give the London Development Agency guidance and directions, in particular, with respect to (a) the preparation, content and submission of the draft strategy (s 7A(6)(a) (as so added)); or (b) keeping the strategy under review (s 7A(6)(b) (as so added)). As to the London Development Agency see PARA 215 post; and TRADE AND INDUSTRY vol 97 (2010) PARA 988 et seq.

Where the Mayor revises the London Development Agency strategy, he must publish it as revised: s 7A(7) (as so added). In the Regional Development Agencies Act 1998 and the Greater London Authority Act 1999, references to the London Development Agency strategy include, except where the context otherwise requires, a reference to the London Development Agency strategy as revised: Regional Development Agencies Act 1998 s 7A(9) (as so added).

3 As to the Secretary of State see PARA 12 note 2 ante.

4 As to the giving of guidance under the Regional Development Agencies Act 1998 see TRADE AND INDUSTRY vol 97 (2010) PARA 996. The Mayor must have regard to any guidance given under s 7B(1) (as added).

5 Ibid s 7B(1)(a) (s 7B added by the Greater London Authority Act 1999 s 306(2)).

6 Regional Development Agencies Act 1998 s 7B(1)(b) (as added: see note 5 supra). The issues mentioned in s 7B(1)(b) (as added) include issues relating to any one or more of: (1) the agency's area (ss 7(3)(a), 7B(2) (as so added)); (2) the area of any other regional development agency (ss 7(3)(b), 7B(2) (as so added)); and (3) any part of the United Kingdom outside England (ss 7(3)(c), 7B(2) (as so added)). As to regional development



agencies and their areas see TRADE AND INDUSTRY vol 97 (2010) PARA 988 et seq. For the meaning of 'United Kingdom' see PARA 26 note 2 ante.

7 Ibid s 7B(4)(a) (as added: see note 5 supra). For the purposes of s 7B (as added), 'national policies' are any policies of Her Majesty's government which are available in a written form and which have been laid or announced before, or otherwise presented to, either House of Parliament (s 7B(7)(a) (as so added)), or have been published by a Minister of the Crown (s 7B(7)(b) (as so added)). For these purposes, 'Minister of the Crown' has the same meaning as in the Ministers of the Crown Act 1975 (see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 354); Regional Development Agencies Act 1998 s 41.

8 Ibid s 7B(4)(b) (as added: see note 5 supra).

9 As to the giving of directions see ibid s 40; and TRADE AND INDUSTRY vol 97 (2010) PARA 996.

10 Ibid s 7B(4) (as added: see note 5 supra). Where the Secretary of State gives the Mayor a direction under s 7B(4) (as added), the Mayor must revise the London Development Agency strategy in accordance with the direction: s 7B(5) (as added: see note 5 supra). Where the Mayor revises the strategy in accordance with s 7B(5) (as added), the provisions of s 7A(8) (as added) and the Greater London Authority Act 1999 s 42 (consultation about strategies) (see PARA 178 ante) do not apply: Regional Development Agencies Act 1998 s 7B(6) (as added: see note 5 supra).

## **UPDATE**

### **196 The London Development Agency strategy**

NOTE 2--See the European Regional Development Fund (London Operational Programme) (Implementation) Regulations 2008, SI 2008/1342.

NOTE 6--Regional Development Agencies Act 1998 s 7B(2) substituted: Local Democracy, Economic Development and Construction Act 2009 Sch 5 para 6.

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/3. THE GREATER LONDON AUTHORITY/(5) FUNCTIONS AND POWERS/(vi) Transport Functions/197. The general transport duty, the transport strategy and Transport for London.

## **(vi) Transport Functions**

### **197. The general transport duty, the transport strategy and Transport for London.**

The Mayor of London<sup>1</sup>, acting on behalf of the Greater London Authority<sup>2</sup>, has various functions relating to transport<sup>3</sup>. There is a general duty to develop and implement policies for the promotion and encouragement of safe, integrated, efficient and economic transport facilities and services<sup>4</sup>. The Mayor must prepare and publish a transport strategy<sup>5</sup>, and has power to secure its implementation<sup>6</sup>. The Mayor also has responsibilities in relation to Transport for London<sup>7</sup>, including the setting of its annual budget<sup>8</sup> and the appointment of its members<sup>9</sup>.

1 As to the Mayor of London see PARA 81 ante.

2 As to the establishment of the Greater London Authority see PARA 79 ante.

3 As to transport and travel in London generally see PARA 256 et seq post.

4 As to the general transport duty see the Greater London Authority Act 1999 s 141; and PARA 262 post.

5 As to the transport strategy see PARA 263 post.

6 As to the implementation of the transport strategy see PARAS 264-268 post.

7 As to Transport for London see PARA 269 et seq post. As to the transition from London Regional Transport to Transport for London see PARAS 271-277 post.

8 See PARAS 233-234 post.

9 See PARA 278 post.

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/3. THE GREATER LONDON AUTHORITY/(5) FUNCTIONS AND POWERS/(vii) Functions relating to Culture and Tourism/198. The culture strategy.

## **(vii) Functions relating to Culture and Tourism**

### **198. The culture strategy.**

The Mayor of London<sup>1</sup> must prepare and publish a document, to be known as the 'culture strategy'<sup>2</sup>, which must contain policies with respect to:

- 334 (1) the arts, tourism and sport<sup>3</sup>;
- 335 (2) ancient monuments and sites<sup>4</sup>;
- 336 (3) buildings and other structures which are of historical or architectural interest or which otherwise form part of the heritage of Greater London<sup>5</sup>;
- 337 (4) museums and galleries<sup>6</sup>;
- 338 (5) library services<sup>7</sup>;
- 339 (6) archives<sup>8</sup>;
- 340 (7) treasure, and antiquities of a movable nature<sup>9</sup>;
- 341 (8) broadcasting, film production and other media of communication<sup>10</sup>.

1 As to the Mayor of London see PARA 81 ante.

2 Greater London Authority Act 1999 s 376(2). For the general duties of the Mayor in relation to his strategies see PARAS 177-179 ante. As to the duty to revise the strategies see PARA 177 et seq ante. As to consultation in connection with the preparation or revision of strategies see PARA 178 ante. As to the publicity and availability of strategies see PARA 179 ante. In the Greater London Authority Act 1999, references to the culture strategy include, except where the context otherwise requires, a reference to the culture strategy as revised: s 376(9).

The strategy to be published under s 376(2) is the draft strategy containing proposed policies with respect to culture, media and sport in Greater London formulated and submitted to the Mayor by the Cultural Strategy Group for London under s 376(1) (see PARA 221 post), with such modifications (if any) as the Mayor considers appropriate: s 376(3). The strategy must be prepared and published by the Mayor as soon as reasonably practicable after the draft strategy has been submitted: s 376(2). The Cultural Strategy Group must keep the culture strategy under review and may submit proposed revisions of it to the Mayor: see s 376(4); and PARA 221 post. As to Greater London see PARA 29 ante.

3 Ibid s 376(5)(a).

4 Ibid s 376(5)(b).

5 Ibid s 376(5)(c).

6 Ibid s 376(5)(d).

7 Ibid s 376(5)(e).

8 Ibid s 376(5)(f).

9 Ibid s 376(5)(g).

10 Ibid s 376(5)(h).

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/3. THE GREATER LONDON AUTHORITY/(5) FUNCTIONS AND POWERS/(vii) Functions relating to Culture and Tourism/199. Power of the Greater London Authority to provide assistance for cultural institutions.

### **199. Power of the Greater London Authority to provide assistance for cultural institutions.**

The Greater London Authority<sup>1</sup> may provide financial or other assistance for the purposes of any museum, gallery, library, archive or other cultural institution in Greater London<sup>2</sup>. Any such assistance may be provided subject to conditions<sup>3</sup>.

1 As to the establishment of the Greater London Authority see PARA 79 ante. The functions conferred or imposed on the Authority under or by virtue of the Greater London Authority Act 1999 Pt X Ch I (ss 375-382) are functions of the Authority which are exercisable by the Mayor of London acting on behalf of the Authority (s 382(2)), except in relation to any function expressly conferred or imposed on the London Assembly (s 382(3)). As to the Mayor of London see PARA 81 ante. As to the Assembly see PARA 82 ante. As to the functions of the Greater London Authority see PARA 164 et seq ante. As to the delegation of functions relating to tourism see PARA 203 post.

2 Ibid s 377(1). As to Greater London see PARA 29 ante.

3 Ibid s 377(2). The conditions that may be imposed include in particular: (1) conditions with respect to the keeping, and production for inspection, of accounts and records (s 377(3)(a)); and (2) conditions requiring the making of repayments in respect of financial assistance in whole or in part (s 377(3)(b)).

### **UPDATE**

### **199 Power of the Greater London Authority to provide assistance for cultural institutions**

TEXT AND NOTES--The Greater London Authority may do anything (1) for the purpose of complying with an obligation of the Mayor of London under the Host City Contract (see THEATRES AND OTHER FORMS OF ENTERTAINMENT vol 45(2) (Reissue) PARA 125A), whether before, during or after the London Olympics; (2) for a purpose connected with preparing for or managing the London Olympics; or (3) for a purpose connected with anything done in accordance with heads (1) or (2) above: London Olympic Games and Paralympic Games Act 2006 s 34(1). In particular, the Greater London Authority may (a) arrange for the construction, improvement or adaptation of premises or facilities of any description; (b) arrange for the provision of services of any description; (c) undertake works of any description; (d) acquire land or other property; (e) enter into agreements; (f) act jointly or cooperate with any person, whether or not having functions under the Host City Contract; (g) give financial or other assistance to persons in respect of activity connected with the London Olympics, whether or not the activity is undertaken in pursuance of an agreement with the Authority; (h) take action in respect of places outside London: s 34(2). In exercising such functions the Authority must have regard to (i) the desirability of consulting and cooperating with the Secretary of State, the British Olympic Association, the London Organising Committee, and other persons with experience or knowledge which might be useful in relation to preparing for or managing the London Olympics; and (ii) the desirability of maximising the benefits to be derived after the London Olympics from things done in preparation for them: s 34(3), (4).

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/3. THE GREATER LONDON AUTHORITY/(5) FUNCTIONS AND POWERS/(vii) Functions relating to Culture and Tourism/200. Duties of the Greater London Authority to promote and advise on tourism.

## **200. Duties of the Greater London Authority to promote and advise on tourism.**

The functions<sup>1</sup> of the Greater London Authority include the duty:

- 342 (1) to encourage people to visit Greater London<sup>2</sup>;
- 343 (2) to encourage people from outside the United Kingdom to visit the United Kingdom by way of Greater London<sup>3</sup>; and
- 344 (3) to encourage the provision and improvement of tourist amenities and facilities<sup>4</sup> in Greater London<sup>5</sup>.

The Greater London Authority has power to provide financial or other assistance<sup>6</sup>: (a) to persons or organisations discharging in relation to Greater London, or any part of it, functions corresponding to the promotional functions of the Greater London Authority<sup>7</sup>; or (b) to any other person or organisation, for the purpose of discharging certain promotional functions<sup>8</sup>.

The Greater London Authority may charge for its services and receive contributions towards its expenses in carrying out any of its promotional functions<sup>9</sup>.

It is the duty of the Greater London Authority to advise any Minister of the Crown<sup>10</sup>, the British Tourist Authority, or the English Tourist Board, on such matters relating to tourism in Greater London as the minister or, as the case may be, the British Tourist Authority or the English Tourist Board may refer to it or as the Greater London Authority thinks fit<sup>11</sup>.

1 The functions conferred or imposed on the Greater London Authority under or by virtue of the Greater London Authority Act 1999 Pt X Ch I (ss 375-382) are functions of the Authority which are exercisable by the Mayor of London acting on behalf of the Authority (s 382(2)), except in relation to any function expressly conferred or imposed on the London Assembly (s 382(3)). As to the Greater London Authority see PARA 79 ante. As to the Mayor of London see PARA 81 ante. As to the Assembly see PARA 82 ante. As to the functions of the Greater London Authority see PARA 164 et seq ante. As to the delegation of functions relating to tourism see PARA 203 post.

The Greater London Authority has power to do anything for the purpose of discharging the functions conferred on it by s 378 (s 378(2)(a)) or which is incidental or conducive to the discharge of those functions (s 378(2)(b)). For the purpose of discharging the functions conferred on it by s 378, the powers of the Authority include power: (1) to undertake publicity or other promotional activities in any form (s 378(3)(a)); (2) to provide advisory and information services (s 378(3)(b)); (3) to promote or undertake research (s 378(3)(c)); and (4) to enter into arrangements with any other person or organisation for or in connection with the carrying on by that person or organisation of any activity which the Authority has power to carry on under s 378 (s 378(3)(d)). The Authority has power by virtue of s 378(2), (3) to carry on any activities outside the United Kingdom for the purpose of encouraging people to visit Greater London or any part of it (s 378(4)(a)), or to visit the United Kingdom by way of Greater London (s 378(4)(b)). As to Greater London see PARA 29 ante. For the meaning of 'United Kingdom' see PARA 26 note 2 ante.

In discharging its functions under s 378(1)-(4), the Greater London Authority must have regard to the desirability of undertaking appropriate consultation and, in appropriate cases, co-operating with the Secretary of State (s 378(5)(a)), any tourist board (s 378(11)) (s 378(5)(b)), or any other persons who, or organisations which, have knowledge of, or are interested in, matters affecting the discharge of those functions (s 378(5)(c)). As to the Secretary of State see PARA 12 note 2 ante. For these purposes, the tourist boards are: the British Tourist Authority or the English, Northern Ireland, Scottish or Wales Tourist Boards. As to the tourist boards and their functions see TRADE AND INDUSTRY vol 97 (2010) PARA 928 et seq.

Nothing in s 378 authorises the Authority to borrow money otherwise than as provided by the other provisions of the Greater London Authority Act 1999: s 378(10). The Greater London Authority Act 1999 authorises the Authority to borrow by making it a body to which the Local Government and Housing Act 1989 Pt IV (ss 39-66) (as amended) applies: see the Greater London Authority Act 1999 s 82(1), (2); and PARA 240 post.

2 Ibid s 378(1)(a).

3 Ibid s 378(1)(b).

4 'Tourist amenities and facilities' means, in relation to any area, amenities and facilities that might be used by visitors to that area or by other people travelling within that area for the purposes of business or leisure: ibid s 382(1).

5 Ibid s 378(1)(c).

6 Where the Greater London Authority provides assistance under ibid s 378(6), it may do so subject to conditions: s 378(7). The conditions that may be imposed under s 378(7) include in particular: (1) conditions with respect to the keeping, and production for inspection, of accounts and records (s 378(8)(a)); and (2) conditions requiring the making of repayments in respect of financial assistance in whole or in part (s 378(8)(b)).

7 Ibid s 378(6)(a). The promotional functions referred to in the text are the functions of the Greater London Authority under s 378.

8 Ibid s 378(6)(b). The promotional functions referred to in the text are the Greater London Authority's functions under s 378(1)-(4) (see the text and notes 1-5 supra).

9 Ibid s 378(9). The promotional functions referred to in the text are the functions of the Greater London Authority under s 378.

10 As to the meaning of 'Minister of the Crown' see PARA 12 note 1 ante.

11 Greater London Authority Act 1999 s 379.

## **UPDATE**

### **200 Duties of the Greater London Authority to promote and advise on tourism**

NOTE 1--Now the Greater London Authority must also co-operate with the National Assembly for Wales: 1999 Act s 378(5)(aa) (added by the Wales Tourist Board (Transfer of Functions to the National Assembly for Wales and Abolition) Order 2005, SI 2005/3225. Section 378(11) amended: SI 2005/3225

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## **201. Grants to the Greater London Authority for its tourism functions.**

The Secretary of State<sup>1</sup> may pay to the Greater London Authority<sup>2</sup> grants of such amounts in respect of expenditure incurred or to be incurred by the Authority in the exercise, or in any particular exercise, of any of its tourism functions<sup>3</sup> as he may with the consent of the Treasury<sup>4</sup> determine<sup>5</sup>. Such a grant<sup>6</sup> may be made subject to such conditions as the Secretary of State may, with the consent of the Treasury, determine<sup>7</sup>.

1 As to the Secretary of State see PARA 12 note 2 ante.

2 As to the establishment of the Greater London Authority see PARA 79 ante.

3 'Tourism functions', in relation to the Greater London Authority, means the Authority's functions under the Greater London Authority Act 1999 s 378 (see PARA 200 ante): s 382(1). The functions conferred or imposed on the Authority under or by virtue of Pt X Ch I (ss 375-382) are functions of the Authority which are exercisable by the Mayor of London acting on behalf of the Authority (s 382(2)), except in relation to any function expressly conferred or imposed on the London Assembly (s 382(3)). As to the Mayor of London see PARA 81 ante. As to the London Assembly see PARA 82 ante. As to the functions of the Greater London Authority see PARA 164 et seq ante. As to the delegation of functions see PARA 203 post.

4 As to the Treasury see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 512 et seq.

5 Greater London Authority Act 1999 s 381(1).

6 Ie a grant under ibid s 381(1).

7 Ibid s 381(2). The conditions that may be imposed by virtue of s 381(2) include in particular: (1) conditions with respect to the keeping, and production for inspection, of accounts and records (s 381(3)(a)); (2) conditions relating to the level of performance to be achieved by the Authority in respect of any of its tourism functions and the consequences of failure to achieve that level (s 381(3)(b)); and (3) conditions requiring repayment of the grant in whole or in part (s 381(3)(c)).

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## **202. Functions relating to Trafalgar Square and Parliament Square.**

The Greater London Authority<sup>1</sup> has taken over the statutory functions<sup>2</sup> relating to the care, control, management and regulation of Trafalgar Square and the central garden of Parliament Square. The Authority may make such byelaws<sup>3</sup> to be observed by persons using Trafalgar Square or Parliament Square Garden as the Authority considers necessary for securing the proper management of those squares and the preservation of order and the prevention of abuses there<sup>4</sup>. A person who contravenes or fails to comply with any such byelaw is guilty of an offence and liable on summary conviction: (1) if the byelaw is a trading byelaw, to a fine not exceeding level 3 on the standard scale<sup>5</sup>; or (2) in any other case, to a fine not exceeding level 1 on the standard scale<sup>6</sup>.

The Secretary of State<sup>7</sup> may issue guidance<sup>8</sup> to the Mayor of London concerning the exercise of any of these functions<sup>9</sup> by the Mayor, or by any body or person authorised to exercise such a function<sup>10</sup>.

1 As to the establishment of the Greater London Authority see PARA 79 ante.

2 The functions of the Secretary of State under the Trafalgar Square Act 1844 s 2 (as amended) and, subject to certain exclusions relating to utilities and transport, the functions relating to the central garden of Parliament Square formerly vested in the Secretary of State: see the Greater London Authority Act 1999 ss 383(1), (2), 384(1)-(7), (9). The functions of the Authority relating to Trafalgar Square and Parliament Square are functions of the Authority which are exercisable by the Mayor of London acting on behalf of the Authority: ss 383(3), 384(8). As to the functions of the Greater London Authority see PARA 164 et seq ante. As to the Mayor see PARA 81 ante. As to the delegation of functions see PARA 203 post.

3 Byelaws under *ibid* s 385 may designate specified provisions of the byelaws as trading byelaws: s 385(2). The provision that may be made in byelaws under s 385 includes provision for or in connection with the licensing of any trading (s 385(4)(a)) and the seizure, retention or disposal of any property in connection with any contravention of or failure to comply with a trading byelaw (s 385(4)(b)). As to the making and confirmation of byelaws by the Authority see LOCAL GOVERNMENT vol 69 (2009) PARAS 556-558; and as to byelaws generally see LOCAL GOVERNMENT vol 69 (2009) PARAS 553-571.

4 *Ibid* s 385(1). The functions conferred or imposed on the Authority by s 385 are in addition to any other functions of the Authority: s 385(5). Any functions conferred or imposed on the Authority by virtue of s 385 are functions of the Authority which are exercisable by the Mayor acting on behalf of the Authority: s 385(6).

5 *Ibid* s 385(3)(a). As to the standard scale para 87 note 6 ante.

6 *Ibid* s 385(3)(b).

7 As to the Secretary of State para 12 note 2 ante.

8 For the meaning of 'guidance' see PARA 96 note 2 ante.

9 The functions referred to in the text are any function under or by virtue of the Greater London Authority Act 1999 s 383(1) (see the text and notes 1-2 supra), any function under or by virtue of s 383(3), (4) (see the text and notes 1-2 supra), or functions under s 385(1) (see the text and notes 3-6 supra).

10 See *ibid* s 386(1). As to the delegation of functions to a body or person see s 380; and PARA 203 post. In deciding whether or how to exercise a function, the Mayor, or body or person, must have regard to any guidance issued under s 386(1): s 386(2).



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### **203. Delegation of functions.**

Any function exercisable by the Mayor of London<sup>1</sup> on behalf of the Greater London Authority<sup>2</sup> under or by virtue of the provisions of the Greater London Authority Act 1999 relating to culture and tourism<sup>3</sup> is also exercisable on behalf of the Authority by any of<sup>4</sup>:

- 345 (1) the Deputy Mayor<sup>5</sup>;
- 346 (2) any member of staff of the Authority<sup>6</sup>;
- 347 (3) the Cultural Strategy Group for London<sup>7</sup>;
- 348 (4) the London Development Agency<sup>8</sup>;
- 349 (5) the Common Council of the City of London<sup>9</sup>;
- 350 (6) any local authority<sup>10</sup>.

Each of the bodies mentioned in heads (3) to (6) above has power to exercise functions on behalf of the Authority<sup>11</sup> whether or not it would have power to do so apart from this provision and irrespective of the nature of the function<sup>12</sup>.

Delegated functions are only exercisable if or to the extent that the Mayor so authorises<sup>13</sup>, whether generally or specially, and subject to any conditions he may impose<sup>14</sup>.

1 As to the Mayor of London see PARA 81 ante. As to the delegation of the Mayor's functions generally see PARA 168 ante.

2 As to the establishment of the Greater London Authority see PARA 79 ante.

3 I.e. the Greater London Authority Act 1999 Pt X (ss 375-386).

4 Ibid s 380(1). Section 380(1) does not apply in relation to functions under s 380 (s 380(6)(a)) or in relation to any function of making byelaws under s 385(1) (see PARA 202 ante) (s 380(6)(b)).

5 Ibid s 380(2)(a). As to the Deputy Mayor see PARA 83 ante.

6 Ibid s 380(2)(b). 'Member of staff' in relation to the Greater London Authority, means a person appointed under s 67(1) or s 67(2) (see PARAS 133-135 ante): s 424(1).

7 Ibid s 380(2)(c). As to the Cultural Strategy Group for London see PARAS 221-224 post.

8 Ibid s 380(2)(d). As to the London Development Agency see PARA 215 post; and TRADE AND INDUSTRY vol 97 (2010) PARA 988 et seq.

9 Ibid s 380(2)(e). As to the Common Council of the City of London see PARA 51 et seq ante.

10 Ibid s 380(2)(f). For the meaning of 'local authority' see PARA 17 note 9 ante.

11 I.e. in accordance with ibid s 380.

12 Ibid s 380(9).

13 An authorisation under ibid s 380 may be varied or revoked at any time by the Mayor (s 380(11)), and any such authorisation, and any variation or revocation of such an authorisation, must be in writing (s 380(12)). In the case of the Common Council or a local authority, an authorisation under s 380 may only be granted or varied with its written consent (s 380(3)(a)) and ceases to have effect if notice of the withdrawal of that consent is given to the Mayor (s 380(3)(b)).

Where, by virtue of an authorisation under s 380(1), a duty is exercisable by any of the bodies or persons specified in s 380(2) (see the text and notes 5-10 *supra*), that body or person must discharge the duty in accordance with the authorisation and any conditions imposed by the Mayor under s 380(1): s 380(4). This is without prejudice to the exercise by the body or person concerned of any power to arrange for the discharge of functions by a committee or sub-committee, or a member, officer or employee, of the body or person, or a joint committee on which the person or body is represented, except to the extent that the terms of the authorisation or any conditions imposed by the Mayor under s 380(1) otherwise provide: s 380(5). The provisions of the Local Government Act 1972 s 101(3), (4) (delegation of functions to committees, officers etc, and continued exercise by local authority concerned: see LOCAL GOVERNMENT vol 69 (2009) PARA 370) apply in relation to any authorisation under the Greater London Authority Act 1999 s 380(1) given by the Mayor to a local authority, to the Cultural Strategy Group for London, or to the London Development Agency, as they apply to arrangements under the Local Government Act 1972 s 101 (as amended) between one local authority and another: Greater London Authority Act 1999 s 380(10).

An authorisation under s 380(1) which relates to any function under s 376 (see PARA 198 *ante*) or the exercise of any function under or by virtue of s 383(1) or s 384(3) (see PARA 202 *ante*) to the extent that it involves a determination as to whether to permit a public demonstration to take place in Trafalgar Square or Parliament Square Garden, may only be given to the Deputy Mayor or a member of staff of the Greater London Authority: ss 380(7), (13), 384(9).

An authorisation under s 380(1) which relates to any function of enforcing any byelaws made under s 385(1) (see PARA 202 *ante*) may only be given to the Deputy Mayor, to a member of staff of the Authority, to the Common Council, or to a local authority: s 380(8).

14 Ibid s 380(1).

## **UPDATE**

### **203 Delegation of functions**

NOTE 4--1999 Act s 380(1) does not apply in relation to any function or making an appointment where s 377A applies (see PARA 203A): s 380(6)(aa) (added by the Greater London Authority Act 2007 s 50(2)).

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**203A. The Mayor's duty to exercise powers of appointment.**

Where an instrument of any description states that an appointment of a particular description is to be made by the Mayor, and the circumstances are such that an appointment of that description falls to be made, the power to make the appointment is to be taken to be a power exercisable by the Mayor<sup>1</sup>. Where any power to make an appointment of a prescribed description in the case of a prescribed<sup>2</sup> body<sup>3</sup> is exercisable by the Mayor, if the body requests the Mayor to exercise the power, he must do so as soon as reasonably practicable after the making of the request<sup>4</sup>.

1 Greater London Authority Act 1999 s 377A(4) (s 377A added by the Greater London Authority Act 2007 s 51(1)). Different descriptions and different numbers of appointments may be prescribed under in the case of different bodies: s 377A(6).

2 'Prescribed' means specified in, or determined in accordance with, an order made by the Secretary of State. As to such an order, see the the Greater London Authority (Mayor of London Appointments) Order 2008, SI 2008/701.

3 Ie, the only bodies that may be prescribed under the Greater London Authority Act 1999 s 377A are bodies that have functions relating to sport, culture or the arts: s 377A(7).

4 Greater London Authority Act 1999 s 377A(1), (2). Any such request must be in writing: s 377A(3).

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### **(viii) Functions relating to Information and Investigation**

#### **204. Power of the Mayor of London to request information, advice and assistance from functional bodies.**

The functional bodies<sup>1</sup> must provide the Mayor of London<sup>2</sup> with such information, advice and assistance as he may by notice<sup>3</sup> request<sup>4</sup>. The information, advice and assistance that may be so requested is such information, advice and assistance as the Mayor may reasonably require for the purpose of discharging functions of the Greater London Authority<sup>5</sup> which are exercisable by him<sup>6</sup>. The Secretary of State<sup>7</sup> may by order prescribe categories of information which a functional body may refuse to provide to the Mayor<sup>8</sup>, or impose further limitations on the exercise of the powers so conferred on the Mayor<sup>9</sup>.

1 As to the functional bodies see PARAS 213-218 post.

2 As to the Mayor of London see PARA 81 ante.

3 For the meaning of 'notice' see PARA 83 note 10 ante.

4 Greater London Authority Act 1999 s 395(1).

5 As to the establishment of the Greater London Authority see PARA 79 ante.

6 Greater London Authority Act 1999 s 395(2). As to the functions of the Greater London Authority see PARA 164 et seq ante.

7 As to the Secretary of State see PARA 12 note 2 ante.

8 Greater London Authority Act 1999 s 395(3)(a). The reference in the text to categories of information is a reference to categories of information which a functional body may refuse to provide to the Mayor under s 395(1) (see the text and notes 1-4 supra). In pursuance of this power the Greater London Authority (Protected Information) Order 2000, SI 2000/2060, has been made, prescribing categories of protected information. 'Protected information' is information which the Mayor cannot reasonably ascertain by means other than the exercise of powers under the Greater London Authority Act 1999 s 395, and which is held by or available to a person who is required to produce such information in the capacity in which he is required to produce information: Greater London Authority (Protected Information) Order 2000, SI 2000/2060, art 2(3). The categories of protected information are: (1) information relating to a relevant employee of a relevant respondent (though this is not to be taken to include information relating to the general responsibilities attaching to particular appointments in the organisation of a relevant respondent) (art 2(1), Schedule Pt 1 para 1); (2) information obtained by a relevant respondent from any person, where disclosure of the information would constitute a breach of confidence actionable by that, or another, person (Schedule Pt 1 para 2); (3) information (other than information requested from Transport for London in pursuance of the Greater London Authority Act 1999 s 395(1)) as to advice received, information obtained or action to be taken in connection with any legal proceedings by or against the relevant respondent, or the determination of any matter affecting the relevant respondent, whether, in either case, proceedings have been commenced or are in contemplation (Greater London Authority (Protected Information) Order 2000, SI 2000/2060, Schedule Pt 1 para 3); (4) information relating to action taken or to be taken in the course of the prevention, investigation or prosecution of a particular crime, or revealing or tending to reveal techniques or methods of criminal investigation (Schedule Pt 1 para 4); (5) information relating to the identity of a person giving the relevant respondent information which tends to show that a criminal offence or a breach of a statutory duty has been, is being or is about to be committed (Schedule Pt 1 para 5); (6) information relating to the protection of prominent persons or their residences, national security, or counter-terrorism (Schedule Pt 1 para 6); and (7) information relating to the provision of police services for any national or international purpose not mentioned in Schedule Pt 1 para 6 (Schedule Pt 1 para 7). For these purposes, 'relevant respondent' means a functional body, a person required to

attend proceedings of, or produce documents to, the London Assembly, or a body of which such a person is a member of staff, or of which he is or has been the chairman or a member (Schedule Pt 2 para (a)); and in relation to a relevant respondent, 'relevant employee' means a particular employee, former employee or applicant to become an employee of, or a particular office-holder, former office-holder or applicant to become an office-holder of the relevant respondent; 'employee' means a person employed under a contract of employment; and 'office-holder' includes the holder of any paid office, appointments to which are or may be made or confirmed by the relevant respondent or by any person who holds any such office or is an employee of the relevant respondent (Schedule Pt 2 para (b)). As to the making of orders generally see PARA 13 ante. As to the London Assembly see PARA 82 ante.

9 Greater London Authority Act 1999 s 395(3)(b). The powers referred to in the text are powers conferred on the Mayor by s 395(1).

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## **205. Power of the Greater London Authority to investigate matters concerning London.**

The Secretary of State<sup>1</sup> may make:

- 351 (1) regulations requiring the Greater London Authority<sup>2</sup> to carry out or assist in carrying out investigations into, or the collection of information relating to, such matters as may be specified in the regulations or matters of such a description as may be so specified<sup>3</sup>;
- 352 (2) regulations<sup>4</sup> requiring the Authority to make, or assist in making, arrangements whereby any such information<sup>5</sup> is, or the results of any such investigation<sup>6</sup> are, made available to government departments, specified bodies or persons<sup>7</sup>, or the public<sup>8</sup>, or whereby any such information or results<sup>9</sup> which is or are in the Authority's possession are made so available<sup>10</sup>;
- 353 (3) regulations requiring the Authority to make, or assist in making, arrangements whereby any information collected, or the result of any investigation carried out, other than by the Authority which has been transferred to the Authority<sup>11</sup> and which is in the Authority's possession, is made so available<sup>12</sup>.

Any functions so conferred or imposed on the Authority<sup>13</sup>, other than any function conferred or imposed by the regulations mentioned in head (1) above<sup>14</sup>, are exercisable by the Mayor of London acting on behalf of the Authority<sup>15</sup>.

The provisions of the Local Government Act 1985 relating to the conducting of research and gathering of information by local authorities<sup>16</sup> do not apply to the Greater London Authority<sup>17</sup>.

1 As to the Secretary of State see PARA 12 note 2 ante.

2 As to the establishment of the Greater London Authority see PARA 79 ante.

3 Greater London Authority Act 1999 s 396(2). At the date at which this volume states the law no such regulations had been made. The Authority is empowered to carry out, or assist in carrying out, investigations into, or the collection of information relating to, any matters concerning Greater London, or any part of Greater London, by s 396(1)(a). The Mayor of London must from time to time, and at least once in every year, consult each London borough council and the Common Council of the City of London about the exercise of the Authority's functions under s 396(1): s 396(8). Before making any regulations under s 396(2), the Secretary of State must consult the Mayor, the Assembly, every London borough council and the Common Council: s 396(9). As to the Mayor of London see PARA 81 ante. As to the London Assembly see PARA 82 ante. As to the London boroughs and their councils see PARAS 30, 35-39, 59 et seq ante. As to the Common Council of the City of London see PARA 51 et seq ante. As to the making of regulations generally see PARA 13 ante. As to Greater London see PARA 29 ante.

4 ie regulations under ibid s 396(2) (see the text and notes 1-3 supra).

5 ie information collected by the Authority under ibid s 396(1)(a) (see note 3 supra).

6 ie any investigation carried out by the Authority under ibid s 396(1)(a) (see note 3 supra).

7 ie bodies or persons specified, or of a description specified, in the regulations.

8 Greater London Authority Act 1999 s 396(2), (3). The Authority is empowered to make, or assist in making, arrangements whereby any information collected under s 396(1)(a) (see note 3 *supra*) is, or the results of any investigation carried out thereunder are, made available to any government department, any local authority in Greater London, any other body or person, or the public: see s 396(1)(b). The Mayor must from time to time, and at least once in every year, consult each London borough council and the Common Council about the exercise of the Authority's functions under s 396(1): s 396(8). For the meaning of 'local authority' see PARA 17 note 9 *ante*.

9 *Ie* any information collected or the result of any investigation carried out by the Authority under *ibid* s 396(1)(a) (see note 3 *supra*).

10 *Ibid* s 396(4), (5)(a). At the date at which this volume states the law no such regulations had been made.

11 *Ie* by virtue of an order under *ibid* s 408 (see PARA 17 *ante*) or a scheme under s 409 (see PARA 18 *ante*).

12 *Ibid* s 396(4), (5)(b). At the date at which this volume states the law no such regulations had been made.

13 *Ie* conferred or imposed by or under *ibid* s 396.

14 *Ibid* s 396(7). The regulations referred to are those made under s 396(2) (see the text and notes 1-3 *supra*).

15 *Ibid* s 396(6). As to the functions of the Greater London Authority see PARA 164 *et seq ante*.

16 *Ie* the Local Government Act 1985 s 88 (as amended) (see LOCAL GOVERNMENT vol 69 (2009) PARA 542).

17 See the Greater London Authority Act 1999 s 396(10), (11), (12).

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## **206. Power of the Mayor of London to make information schemes.**

The Mayor of London<sup>1</sup> may make schemes for the collection of information relating to any matters concerning Greater London<sup>2</sup> or any part of it<sup>3</sup>. The schemes that may be so made include schemes under which each London local authority<sup>4</sup> must provide to the Mayor, in accordance with the scheme, information required by the Mayor to be provided<sup>5</sup> and falling within such description of information as is specified in the scheme<sup>6</sup>. A scheme may be made only after consultation with each London local authority<sup>7</sup> and has effect so as to be binding on all the London local authorities only if at least two-thirds of those authorities give their agreement to the scheme<sup>8</sup>. A scheme must state whether or not it is to remain in effect indefinitely and, if it is not to remain in effect indefinitely, must state the period for which it is to remain in effect<sup>9</sup>. A scheme may at any time be revoked by the Mayor<sup>10</sup> or be varied by the Mayor in accordance with the terms of the scheme or by agreement between the Mayor and at least two-thirds of the London local authorities<sup>11</sup>.

1 As to the Mayor of London see PARA 81 ante.

2 As to Greater London see PARA 29 ante.

3 Greater London Authority Act 1999 s 397(1). A scheme under s 397 may include provision relating to: the method by which information to be collected or provided under the scheme is to be analysed (s 397(6)(a)); the form in which such information is to be collected or provided (s 397(6)(b)); the ownership of information collected or provided under the scheme (s 397(6)(c)); the method by which information is to be transferred or stored under the scheme (s 397(6)(d)); the persons to whom information collected or provided under the scheme may, or may not, be disclosed (s 397(6)(e)); and the costs of the scheme (s 397(6)(e)) (including, in particular, provision for the costs of collecting or providing information of a description specified in the scheme to be borne by the Mayor or a London local authority or by both the Mayor and a London local authority in such proportions as may be specified by or under the scheme (s 397(7)(a)) and for the recovery of costs related to the scheme by the Mayor from a London local authority, by a London local authority from the Mayor or by a London local authority from another such authority (s 397(7)(b))). A scheme may contain such supplementary provision as the Mayor considers necessary or expedient: s 397(8). The powers of the Mayor under s 397 are without prejudice to any other power of the Mayor under or by virtue of the Greater London Authority Act 1999 to require any London local authority to provide information: s 397(9).

4 For these purposes, 'London local authority' means a London borough council or the Common Council of the City of London: *ibid* ss 397(10), 398(5), 399(4). As to the London boroughs and their councils see PARAS 30, 35-39, 59 et seq ante. As to the Common Council of the City of London see PARA 51 et seq ante.

5 *Ibid* s 397(2)(a). For the purposes of any scheme made by virtue of s 397(2) each London local authority has power to collect any information which is required to be provided by that authority to the Mayor under the scheme: s 398(4). Where such a scheme is made but the agreement of at least two-thirds of the London local authorities is not given to the scheme under s 397(4) (see the text and note 8 *infra*) the Mayor may apply to the Secretary of State for a direction that the scheme is to have effect so as to be binding on all those authorities: s 398(1). Such a direction must specify the date from which the scheme is to have effect by virtue of the direction: s 398(2). Before giving such a direction the Secretary of State must consult each London local authority and may give the direction only if he considers: (1) that the provision of information of the description which may be required by the Mayor to be provided under the scheme is necessary for the exercise of functions of the Greater London Authority (s 398(3)(a)); and (2) that the provisions of the scheme will not impose an unreasonable financial burden on the London local authorities (s 398(3)(b)). As to the Secretary of State see PARA 12 note 2 ante. As to the establishment of the Greater London Authority see PARA 79 ante. As to the giving of directions see PARA 13 ante.

6 *Ibid* s 397(2)(b). See also note 5 *supra*.



7 Ibid s 397(3).

8 Ibid s 397(4).

9 Ibid s 397(5).

10 Ibid s 399(1)(a). Before deciding whether to revoke or vary a scheme by virtue of s 399(1) the Mayor must consult each London local authority (s 399(2)), and where the Mayor so revokes or varies a scheme he must notify each London local authority of the revocation or variation (s 399(3)). For the meaning of 'notify' see PARA 83 note 10 ante.

11 Ibid s 399(1)(b). See also note 10 supra.

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**207. Duties of the Greater London Authority with regard to custody and inspection of documents.**

The statutory provisions relating to the making of arrangements by principal councils<sup>1</sup> for the custody of documents<sup>2</sup>, the deposit of documents with the proper officer<sup>3</sup> of a local authority<sup>4</sup>, the inspection of documents<sup>5</sup> and the making of photographic copies of documents<sup>6</sup> apply to the Greater London Authority as if the Authority were a local authority<sup>7</sup> which is a principal council and the Mayor of London<sup>8</sup> were the chairman of such an authority<sup>9</sup>.

1 For the purposes of the Greater London Authority Act 1999, 'principal council' has the same meaning as in the Local Government Act 1972 (see LOCAL GOVERNMENT vol 69 (2009) PARA 23): Greater London Authority Act 1999 s 424(1).

2 Ibid s 75(2)(a). The provisions referred to in the text are those of the Local Government Act 1972 s 224 (as amended) (see LOCAL GOVERNMENT vol 69 (2009) PARA 536).

3 In the application of any enactment in relation to the Greater London Authority by virtue of the Greater London Authority Act 1999 s 75(1), any reference to the proper officer is to be taken as a reference to the proper officer of the Authority within the meaning of the Greater London Authority Act 1999: s 75(3). For the meaning of 'proper officer' see PARA 83 note 11 ante. As to the establishment of the Greater London Authority see PARA 79 ante.

4 Ibid s 75(2)(b). The provisions referred to in the text are those of the Local Government Act 1972 s 225 (as amended) (see LOCAL GOVERNMENT vol 69 (2009) PARA 538).

5 Greater London Authority Act 1999 s 75(2)(c). The provisions referred to in the text are those of the Local Government Act 1972 s 228 (as amended) (see LOCAL GOVERNMENT vol 69 (2009) PARAS 538-539).

6 Greater London Authority Act 1999 s 75(2)(d). The provisions referred to in the text are those of the Local Government Act 1972 s 229 (as amended) (see LOCAL GOVERNMENT vol 69 (2009) PARAS 539-540).

7 For the meaning of 'local authority' see PARA 17 note 9 ante.

8 As to the Mayor of London see PARA 81 ante.

9 Greater London Authority Act 1999 s 75(1).

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**208. Duty of the Greater London Authority to make reports and returns to Secretary of State.**

The Greater London Authority<sup>1</sup> must send the Secretary of State<sup>2</sup> such reports and returns, and give him such information with respect to its functions, as he may require or as may be required by either House of Parliament<sup>3</sup>.

1 As to the establishment of the Greater London Authority see PARA 79 ante.

2 As to the Secretary of State see PARA 12 note 2 ante.

3 Local Government Act 1972 s 230 (amended by the Local Government Act 1985 s 84, Sch 14 para 26; and the Education Reform Act 1988 s 237(2), Sch 13 Pt I); Greater London Authority Act 1999 s 75(1), (2)(e).

**UPDATE**

**208 Duty of the Greater London Authority to make reports and returns to Secretary of State**

TEXT AND NOTE 3--1972 Act s 230 further amended: Local Government and Public Involvement in Health Act 2007 Sch 13 para 18.

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## **(ix) Legislative Functions**

### **209. Power of the Greater London Authority to promote and oppose Bills in Parliament.**

The Greater London Authority<sup>1</sup> may promote a local Bill in Parliament for any purpose which is for the public benefit of the inhabitants of, or of any part of, Greater London<sup>2</sup>, although this power does not extend to promoting a Bill for forming or abolishing any local government area<sup>3</sup> or for altering or altering the status or electoral arrangements<sup>4</sup> of any local government area<sup>5</sup>. The Authority may also oppose any local Bill in Parliament which affects the inhabitants of, or of any part of, Greater London<sup>6</sup>. The Authority's powers to promote and oppose Bills<sup>7</sup> are functions of the Authority which are exercisable by the Mayor of London acting on behalf of the Authority<sup>8</sup>.

1 As to the establishment of the Greater London Authority see PARA 79 ante.

2 Greater London Authority Act 1999 s 77(1)(a). As to Greater London see PARA 29 ante. The functions conferred on the Authority by s 77(1)(a) are exercisable subject to, and in accordance with, the provisions of Sch 5 (see PARAS 210-211 post): s 77(4). No payment may be made by the Authority (whether acting by the Mayor of London, the London Assembly or the Mayor and Assembly acting jointly) to the Mayor or an Assembly member for acting as counsel or agent in promoting or opposing a Bill under s 77: s 77(6). A London borough council or the Common Council of the City of London may contribute towards the expenses of the Authority in promoting a local Bill in Parliament: s 77(7). As to the Mayor of London see PARA 81 ante. As to the London Assembly see PARA 82 ante. As to the London boroughs and their councils see PARAS 30, 35-39, 59 et seq ante. As to the Common Council of the City of London see PARA 51 et seq ante.

Power to promote Bills is also conferred on Transport for London (see PARA 296 post) and on the London Development Agency (see PARA 215 post; and TRADE AND INDUSTRY vol 97 (2010) PARA 988 et seq).

3 For these purposes, 'local government area' means, in relation to England, a county, Greater London, a district, a London borough or a parish, and includes the City of London, the Inner Temple and the Middle Temple: Local Government Act 1972 ss 78(1), 270(1). As to the City of London and the Temples see PARAS 31-32 ante.

4 As to electoral arrangements see LOCAL GOVERNMENT vol 69 (2009) PARA 57 et seq.

5 Local Government Act 1972 s 70(1) (amended by the Local Government Act 1985 s 84, Sch 14 para 1; the Education Reform Act 1988 s 237, Sch 12 Pt II para 41, Sch 13 Pt I; and the Greater London Authority Act 1999 s 328, Sch 29 Pt I para 14); Greater London Authority Act 1999 s 77(2).

6 Ibid s 77(1)(b). Before exercising the functions conferred on the Authority by s 77(1)(b), the Mayor must consult the Assembly: s 77(5). No payment may be made by the Authority (whether acting by the Mayor, the Assembly or the Mayor and Assembly acting jointly) to the Mayor or an Assembly member for acting as counsel or agent in opposing a Bill under s 77: s 77(6).

Power to oppose Bills is also conferred on Transport for London (see PARA 296 post) and on the London Development Agency (see PARA 215 post; and TRADE AND INDUSTRY vol 97 (2010) PARA 988 et seq).

7 I.e. the functions conferred on the Authority by ibid s 77(1) (see the text and notes 1-6 supra).

8 Ibid s 77(3). As to the functions of the Greater London Authority see PARA 164 et seq ante.

## **UPDATE**

**209 Power of the Greater London Authority to promote and oppose Bills in Parliament**

TEXT AND NOTE 5--Local Government Act 1972 s 70(1) further amended: Local Government and Public Involvement in Health Act 2007 Sch 13 para 2; Local Democracy, Economic Development and Construction Act 2009 Sch 6 para 11.

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## **210. Consultation on Bills proposed to be promoted by the Greater London Authority.**

There are two stages of consultation through which a local Bill proposed to be promoted by the Greater London Authority<sup>1</sup> must proceed before it may be deposited in Parliament<sup>2</sup>.

The Mayor of London<sup>3</sup> must prepare a draft of the proposed Bill<sup>4</sup>, send copies of it<sup>5</sup> to the London Assembly<sup>6</sup>, every London borough council<sup>7</sup>, and the Common Council of the City of London<sup>8</sup>, and consult those bodies about the draft Bill<sup>9</sup>. Throughout the consultation period<sup>10</sup>, the Mayor must take such steps as in his opinion will give adequate publicity to the draft Bill<sup>11</sup> and must keep a copy of it available for inspection<sup>12</sup>. A copy of the draft Bill, or of any part of it, must be supplied to any person on request during the consultation period for such reasonable fee as the Mayor may determine<sup>13</sup>.

If, after considering any representations made about the draft Bill<sup>14</sup>, the Mayor decides to continue with the proposal for a Bill to be promoted, he must prepare a revised draft of the proposed Bill<sup>15</sup> and, after the expiration of at least 30 days from the beginning of the consultation period, send a copy thereof to the Assembly<sup>16</sup> and consult the Assembly about it<sup>17</sup>.

1     Ie in pursuance of the Authority's power under the Greater London Authority Act 1999 s 77(1)(a): see PARA 209 ante. As to the establishment of the Greater London Authority see PARA 79 ante.

2     Ibid s 77(4), Sch 5 para 1. As to the deposit of Bills in Parliament see PARA 211 post.

3     As to the Mayor of London see PARA 81 ante.

4     Greater London Authority Act 1999 Sch 5 para 2(1)(a).

5     Ibid Sch 5 para 2(1)(b). Where the Mayor, pursuant to Sch 5 para 2(1)(b), sends copies of the draft Bill he must also give notice of the time within which, and the place at which, representations may be made about the draft Bill: Sch 5 para 2(3). For the meaning of 'notice' see PARA 83 note 10 ante.

6     Ibid Sch 5 para 2(2)(a). As to the London Assembly see PARA 82 ante.

7     Ibid Sch 5 para 2(2)(b). As to the London boroughs and their councils see PARAS 30, 35-39, 59 et seq ante.

8     Ibid Sch 5 para 2(2)(c). As to the Common Council of the City of London see PARA 51 et seq ante.

9     Ibid Sch 5 para 2(1)(c).

10    In ibid Sch 5 paras 3, 4, 'the consultation period' means the period which begins with the first day after the requirements of Sch 5 para 2(1)(b) (see the text and note 5 supra) have been complied with and ends with the time notified pursuant to Sch 5 para 2(3) (see the text and note 5 supra): Sch 5 paras 3(4), 4(6).

11    Ibid Sch 5 para 3(1).

12    Ibid Sch 5 para 3(2). The copy of the draft Bill must be available for inspection, at reasonable hours, by any person on request free of charge at the principal offices of the Authority (Sch 5 para 3(2)(a)) and at such other place as the Mayor considers appropriate (Sch 5 para 3(2)(b)).

13    Ibid Sch 5 para 3(3).

14    Ie any representations made pursuant to ibid Sch 5 para 2 (see the text and notes 3-9 supra).

15    Ibid Sch 5 para 4(1). The revised draft Bill must be in the form of the draft Bill, either as originally prepared or as modified to take account of: (1) representations made pursuant to Sch 5 para 2 (see the text

and notes 3-9 supra) (Sch 5 para 4(2)(a)); (2) other representations made within the consultation period (Sch 5 para 4(2)(b)); or (3) other material considerations (Sch 5 para 4(2)(c)).

16 Ibid Sch 5 para 4(3)(a). Where the Mayor sends a copy of the revised draft Bill to the Assembly pursuant to Sch 5 para 4(3)(a) he must also give the Assembly notice of the period within which it may make representations to him about the revised draft Bill: Sch 5 para 4(4). The period so specified must be such as will afford the Assembly a reasonable opportunity to consider the revised draft Bill and make representations about it to the Mayor: Sch 5 para 4(5).

17 Ibid Sch 5 para 4(3)(b).

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## **211. Deposit of Bills proposed to be promoted by the Greater London Authority.**

If, after the requirements as to consultation on a revised draft Bill<sup>1</sup> have been complied with, a Bill is deposited in Parliament by the Greater London Authority<sup>2</sup>, that Bill must be in the form of the revised draft Bill, either as originally prepared or as modified to take account of representations made by the London Assembly<sup>3</sup> or other material considerations<sup>4</sup>. Where a Bill is deposited in Parliament<sup>5</sup>, the Mayor of London must, during the period of 14 days following the day on which the Bill is so deposited, take such steps as in his opinion will give adequate publicity to the Bill<sup>6</sup>, and throughout the period while the Bill is in Parliament, a copy of the deposited Bill must be kept available by the Mayor for inspection<sup>7</sup>. Such a copy, or a copy of any part of the deposited Bill, must be supplied to any person on request for such reasonable fee as the Mayor may determine<sup>8</sup>.

If a Bill proposed to be deposited in Parliament<sup>9</sup> contains provisions affecting the exercise of statutory functions<sup>10</sup> by a London local authority<sup>11</sup>, the Bill may not be deposited in Parliament unless<sup>12</sup>:

- 354 (1) in a case where the exercise of statutory functions of one London local authority is affected, that authority has given its written consent to the Bill in the form in which it is to be so deposited<sup>13</sup>; or
- 355 (2) in a case where the exercise of statutory functions of two or more London local authorities is affected, at least 90 per cent of all London local authorities have given their written consent to the Bill in that form<sup>14</sup>.

1    Ie the requirements of the Greater London Authority Act 1999 s 77(4), Sch 5 para 4 (see PARA 210 ante).

2    Ie by virtue of *ibid* s 77(1)(a) (see PARA 209 ante). As to the establishment of the Greater London Authority see PARA 79 ante.

3    *Ibid* Sch 5 para 5(a). As to the London Assembly see PARA 82 ante.

4    *Ibid* Sch 5 para 5(b).

5    *Ibid* Sch 5 para 7(1). The reference in the text to a Bill being deposited in Parliament is a reference to a Bill which is deposited in Parliament by virtue of s 77(1)(a) (see PARA 209 ante).

6    *Ibid* Sch 5 para 7(2).

7    *Ibid* Sch 5 para 7(3). The copy of the deposited Bill must be available for inspection, at reasonable hours, by any person on request free of charge at the principal offices of the Authority (Sch 5 para 7(3)(a)) and at such other place as the Mayor considers appropriate (Sch 5 para 7(3)(b)). As to the Mayor of London see PARA 81 ante.

8    *Ibid* Sch 5 para 7(4).

9    Ie by virtue of *ibid* s 77(1)(a) (see PARA 209 ante).

10   For the meaning of 'statutory functions' see PARA 149 note 8 ante.

11   For these purposes, 'London local authority' means a London borough council or the Common Council of the City of London: Greater London Authority Act 1999 Sch 5 para 6(2). As to the London boroughs and their councils see PARAS 30, 35-39, 59 et seq ante. As to the Common Council of the City of London see PARA 51 et seq ante.



- 12 Ibid Sch 5 para 6.
- 13 Ibid Sch 5 para 6(a).
- 14 Ibid Sch 5 para 6(b).

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## **212. Inclusion in London local authority Bills of provisions requested or consented to by the Greater London Authority.**

A local Bill promoted in Parliament by a London local authority<sup>1</sup> may include provisions requested by the Greater London Authority<sup>2</sup>, provided that the Greater London Authority confirms the request in writing as soon as practicable after the expiration of 14 days after the Bill has been deposited in Parliament<sup>3</sup>. If the Greater London Authority does not so confirm the request<sup>4</sup>, it must give notice<sup>5</sup> of that fact to the London local authority promoting the Bill<sup>6</sup>.

A local Bill promoted in Parliament by a London local authority may include provisions<sup>7</sup> which affect the exercise of statutory functions<sup>8</sup> by the Greater London Authority or any of the functional bodies<sup>9</sup>, provided that the Greater London Authority gives its written consent<sup>10</sup> and confirms that consent in writing as soon as practicable after the expiration of 14 days after the Bill has been deposited in Parliament<sup>11</sup>. If the Greater London Authority does not so confirm the consent<sup>12</sup>, it must give notice of that fact to the London local authority promoting the Bill<sup>13</sup>.

1 For these purposes, 'London local authority' means a London borough council or the Common Council of the City of London: Greater London Authority Act 1999 ss 78(9), 79(8). As to the London boroughs and their councils see PARAS 30, 35-39, 59 et seq ante. As to the Common Council of the City of London see PARA 51 et seq ante.

2 Ibid s 78(1). As to the establishment of the Greater London Authority see PARA 79 ante. If, in accordance with s 78, the Greater London Authority requests the inclusion of provisions in a Bill promoted by a London local authority, the Greater London Authority may contribute towards the expenses of the London local authority in connection with the Bill: s 78(7).

The functions conferred or imposed on the Greater London Authority by ss 78(1)-(3), 79(2), (3) (see the text and notes infra) are functions of the Authority which are exercisable by the Mayor of London acting on behalf of the Authority: ss 78(5), 79(5). As to the functions of the Greater London Authority see PARA 164 et seq ante. As to the Mayor of London see PARA 81 ante. Before exercising the functions conferred on the Authority by s 78(1), s 78(2), s 79(2)(a) or s 79(2)(b), the Mayor must consult the London Assembly: ss 78(6), 79(6). As to the London Assembly see PARA 82 ante.

3 Ibid s 78(2). See also note 2 supra.

4 Ie as required by ibid s 78(2) (see the text and note 3 supra).

5 For the meaning of 'notice' see PARA 83 note 10 ante.

6 Greater London Authority Act 1999 s 78(3). See also note 2 supra. Where notice is given to a London local authority under s 78(3) or s 79(3) (see the text and notes 12-13 infra), that authority must take all necessary steps for the omission from the Bill of the provisions in question or, if those provisions were requested also by other London local authorities under the Local Government Act 1985 s 87 (as amended) (see LOCAL GOVERNMENT vol 69 (2009) PARA 572), of those provisions so far as relating to the Greater London Authority (or, in the case of a notice given under the Greater London Authority Act 1999 s 79(3), so far as relating to the functional body concerned, as the case may be): ss 78(4), 79(4). As to the functional bodies see PARAS 213-218 post.

7 Nothing in ibid s 79 applies in relation to provisions requested under s 78 (see the text and notes 1-6 supra): s 79(7).

8 For the meaning of 'statutory functions' see PARA 149 note 8 ante.

9 Greater London Authority Act 1999 s 79(1).

10 Ibid s 79(2)(a). See also note 2 supra.

- 11 Ibid s 79(2)(b). See also note 2 supra.
- 12 Ie the consent required by ibid s 79(2)(b) (see the text and note 11 supra).
- 13 Ibid s 79(3). See also note 2 supra.

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## **(6) STATUTORY BODIES OPERATING UNDER THE GREATER LONDON AUTHORITY**

### **(i) The Four Functional Bodies of the Greater London Authority**

#### **A. IN GENERAL**

#### **213. The four functional bodies.**

The Greater London Authority<sup>1</sup> oversees four functional bodies, which are responsible for carrying out certain aspects of the Authority's work<sup>2</sup>. The functional bodies, each of which is a separate body corporate, are: (1) Transport for London<sup>3</sup> (2) the London Development Agency<sup>4</sup>; (3) the Metropolitan Police Authority<sup>5</sup>; and (4) the London Fire and Emergency Planning Authority<sup>6</sup>.

In exercising any function each functional body is required to have regard to the spatial development strategy<sup>7</sup> and the environmental strategies<sup>8</sup> prepared and published by the Mayor of London<sup>9</sup>. The loan commissioners may make loans to the functional bodies<sup>10</sup>. The Secretary of State is under a duty to provide accommodation for each of the functional bodies<sup>11</sup>.

1 As to the establishment of the Greater London Authority see PARA 79 ante.

2 For many purposes concerning the exercise of functions and ancillary powers and duties the functional bodies are treated as local authorities. For the functions of local authorities generally see LOCAL GOVERNMENT vol 69 (2009) PARA 303 et seq. For special provisions concerning the finances of functional bodies see PARAS 232-253 post. As to ethical standards see PARAS 254-255 post.

3 As to Transport for London see PARAS 218, 269 et seq post.

4 As to the London Development Agency see PARA 215 post; and TRADE AND INDUSTRY vol 97 (2010) PARA 988 et seq. See also PARA 196 ante.

5 As to the Metropolitan Police Authority see PARA 216 post; and POLICE vol 36(1) (2007 Reissue) PARAS 147-155.

6 Greater London Authority Act 1999 s 424(1). As to the London Fire and Emergency Planning Authority see PARA 217 post; and FIRE SERVICES vol 18(2) (Reissue) PARA 17.

7 Ibid s 347. As to the spatial development strategy see PARAS 189-195 ante.

8 I.e. the strategies prepared and published under ibid Pt IX (ss 351-374) (as amended); see PARAS 180-187 ante; and ENVIRONMENTAL QUALITY AND PUBLIC HEALTH vol 45 (2010) PARA 100; ENVIRONMENTAL QUALITY AND PUBLIC HEALTH vol 46 (2010) PARA 630, 854.

9 Ibid s 373. As to the Mayor of London see PARA 81 ante.

10 See the National Loans Act 1968 s 4 (as amended), Sch 2 (amended by the Greater London Authority Act 1999 s 139(1)); and the Public Works Loans Act 1965 s 2 (amended by the Greater London Authority Act 1999 s 139(2)); and FINANCIAL SERVICES AND INSTITUTIONS vol 49 (2008) PARAS 1384, 1388.

11 See ibid s 419; and PARA 214 post.

## **UPDATE**

### **213 The four functional bodies**

NOTE 10--Public Works Loans Act 1965 s 2 further amended: Local Government Act 2003 Sch 7 para 2; Courts Act 2003 Sch 8 para 125, Sch 10; Local Authorities (Capital Finance) (Consequential, Transitional and Saving Provisions) Order 2004, SI 2004/533.

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#### **214. Provision of accommodation.**

During the period of five years beginning with 11 November 1999<sup>1</sup> the Secretary of State<sup>2</sup> is under a duty to provide accommodation for each of the functional bodies<sup>3</sup>. However, if he is satisfied that appropriate accommodation is available or has been provided for any of the functional bodies he may by order make provision substituting for that five-year period, as it has effect in relation to that body, such shorter period as he may determine<sup>4</sup>. The Secretary of State need not provide accommodation for any of the functional bodies<sup>5</sup> during any period as respects which that body has notified him that it does not require him to provide accommodation for it<sup>6</sup>.

1    Ie the day on which the Greater London Authority Act 1999 was passed (ie received the Royal Assent).

2    As to the Secretary of State see PARA 12 note 2 ante.

3    Greater London Authority Act 1999 s 401(1)(b). As to the four functional bodies generally see PARA 213 ante. The provision of accommodation under s 401(1) is on such financial and other terms as the Secretary of State may determine: s 401(5).

4    Ibid s 401(2). At the date at which this volume states the law no such order had been made. As to the making of orders generally see PARA 13 ante. Where the Secretary of State has made an order under s 401(2) in the case of any of the functional bodies but subsequently considers that it is necessary, expedient or desirable to extend the period for the time being specified in s 401(1) as it has effect in relation to that body, he may by order make provision substituting for that period (whether or not it has expired) such longer period as he may determine, ending not later than 10 November 2004 (ie the end of the period of five years beginning with 11 November 1999): s 401(3).

5    Ie under ibid s 401(1) (see the text and notes 1-3 supra).

6    Ibid s 401(4).

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## **B. THE LONDON DEVELOPMENT AGENCY**

### **215. The London Development Agency.**

The London Development Agency was constituted as a regional development agency under the Regional Development Agencies Act 1998<sup>1</sup> and became a functional body of the Greater London Authority<sup>2</sup> by virtue of the Greater London Authority Act 1999<sup>3</sup>. The Regional Development Agencies Act 1998 has been modified in its application to the London Development Agency<sup>4</sup>, in particular so that its members are appointed by the Mayor of London<sup>5</sup>.

As a regional development agency, the London Development Agency has wide powers in order to further its purposes which include the economic development and regeneration of its area, the promotion of business efficiency, investment and competitiveness in its area and the promotion of employment in its area<sup>6</sup>. Provision is made for a London Development Agency strategy, which must be kept under review<sup>7</sup>. The powers of the London Development Agency include the power to promote Bills in Parliament<sup>8</sup>.

1 See the Regional Development Agencies Act 1998 s 1, Sch 1. See further TRADE AND INDUSTRY vol 97 (2010) PARA 988 et seq.

2 As to the establishment of the Greater London Authority see PARA 79 ante.

3 See the Greater London Authority Act 1999 s 424(1); and PARA 213 ante.

4 See *ibid* Pt V (ss 304-309). See also the London Development Agency (Transitional Provisions) Order 2000, SI 2000/1174.

5 See the Regional Development Agencies Act 1998 s 2(1) (modified by s 2(7) (added by the Greater London Authority Act 1999 s 304)). As to the Mayor of London see PARA 81 ante.

Persons holding politically restricted posts are disqualified from membership of the London Development Agency: see the Greater London Authority Act 1999 s 68. As to disqualification and political restriction see LOCAL GOVERNMENT vol 69 (2009) PARA 120 et seq.

6 See the Regional Development Agencies Act 1998 ss 4, 5; and TRADE AND INDUSTRY vol 97 (2010) PARA 989.

7 See *ibid* s 7A (added by the Greater London Authority Act 1999 s 306). The general provisions in the Greater London Authority Act 1999 ss 41-44 relating to the Mayor's strategies (see PARAS 177-179 ante) apply to the London Development Agency strategy: see ss 41(1)(b), 42(3), 43(1), 44(1). As to the London Development Agency strategy see PARA 196 ante; and TRADE AND INDUSTRY vol 97 (2010) PARA 988 et seq.

8 See the Regional Development Agencies Act 1998 s 26A (added by the Greater London Authority Act 1999 s 309, Sch 25 para 16).

## **UPDATE**

### **215 The London Development Agency**

NOTE 5--1999 Act s 68 amended: Local Government and Public Involvement in Health Act 2007 s 203(3)(b).

NOTE 6--See the European Regional Development Fund (London Operational Programme) (Implementation) Regulations 2008, SI 2008/1342.



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### ***C. THE METROPOLITAN POLICE AUTHORITY***

#### **216. The Metropolitan Police Authority.**

The Greater London Authority Act 1999 amended the Police Act 1996 so as to establish a police authority for the metropolitan police district<sup>1</sup> which is a body corporate known as the Metropolitan Police Authority<sup>2</sup>. The Metropolitan Police Authority is a functional body of the Greater London Authority<sup>3</sup>.

The Metropolitan Police Authority was established to maintain an efficient and effective police service for its district<sup>4</sup>. In addition to the functions which belong to police authorities generally<sup>5</sup>, the Metropolitan Police Authority has national and international functions relating to matters such as protection of prominent persons, national security and counter-terrorism<sup>6</sup>.

1 As to the metropolitan police district see POLICE vol 36(1) (2007 Reissue) PARA 137.

2 See the Police Act 1996 s 5B (added by the Greater London Authority Act 1999 s 310(1)). As to the Metropolitan Police Authority see further POLICE vol 36(1) (2007 Reissue) PARAS 147-155. As to legislation relating to the police see PARA 1 note 2 ante; and POLICE.

3 See the Greater London Authority Act 1999 s 424(1); and PARA 213 ante. As to the establishment of the Greater London Authority see PARA 79 ante.

4 See the Police Act 1996 s 3 (amended by the Greater London Authority Act 1999 s 311). Special provision is made in relation to the calculation of budget requirements where it appears to the Secretary of State that, in order to restore or maintain an effective police force for its area, the Metropolitan Police Authority requires a greater component budget requirement than that previously calculated (ie under the Greater London Authority Act 1999 s 85: see PARA 233 post): see ss 95, 96; and PARA 233 note 3 post. For the meaning of 'component budget requirement' see PARA 234 post. As to the finance of police authorities generally see POLICE vol 36(1) (2007 Reissue) PARA 167. As to the Secretary of State see PARA 12 note 2 ante.

5 As to the functions and powers of police authorities see POLICE vol 36(1) (2007 Reissue) PARA 156 et seq.

6 See the Police Act 1996 s 96A (added by the Greater London Authority s 325, Sch 27 para 104); and POLICE vol 36(1) (2007 Reissue) PARA 205.

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#### ***D. THE LONDON FIRE AND EMERGENCY PLANNING AUTHORITY***

##### **217. The London Fire and Emergency Planning Authority.**

The Local Government Act 1985 established a body corporate known as the London Fire and Civil Defence Authority, consisting of members of the constituent councils (that is to say, the London borough councils<sup>1</sup> and the Common Council of the City of London<sup>2</sup>) appointed by them to be members of the Authority<sup>3</sup>. The Greater London Authority Act 1999 repealed the provision under which that Authority was established<sup>4</sup>, but provided for the continuation in being of the body corporate established by the Local Government Act 1985 under the name of the London Fire and Emergency Planning Authority<sup>5</sup>. The London Fire and Emergency Planning Authority is a functional body of the Greater London Authority<sup>6</sup>. As the fire authority for Greater London<sup>7</sup>, the London Fire and Emergency Planning Authority is responsible for the London Fire Brigade. The London Fire and Emergency Planning Authority also has functions relating to emergency planning, and assists the London borough councils with all aspects of planning for emergencies.

1 As to the London boroughs and their councils see PARAS 30, 35-39, 59 et seq ante.

2 As to the Common Council of the City of London see PARA 51 et seq ante.

3 See the Local Government Act 1985 s 27 (repealed).

4 See the Greater London Authority Act 1999 ss 328(1), 423, Sch 34 Pt VIII.

5 See *ibid* s 328(2); and FIRE SERVICES vol 18(2) (Reissue) PARA 17. As to the London Fire and Emergency Planning Authority see s 328, Sch 28; and FIRE SERVICES.

6 See *ibid* s 424(1); and PARA 213 ante. As to the establishment of the Greater London Authority see PARA 79 ante.

7 Local Government Act 1985 s 37 (amended by the Police and Magistrates' Court Act 1994 s 93, Sch 9 Pt I); Local Government Act 1985 Sch 11 para 2(1) (amended by the Greater London Authority Act 1999 s 329). As to fire authorities and their functions see FIRE SERVICES vol 18(2) (Reissue) PARA 17 et seq.

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## ***E. TRANSPORT FOR LONDON***

### **218. Transport for London.**

Transport for London is a body corporate established under the Greater London Authority Act 1999 to take over the functions, property, rights and liabilities of London Regional Transport<sup>1</sup>. Transport for London is a functional body of the Greater London Authority<sup>2</sup> reporting to the Mayor of London<sup>3</sup>, working with the London borough councils<sup>4</sup> to implement the transport strategy<sup>5</sup>. Transport for London is responsible for, inter alia, London Buses<sup>6</sup>, the Docklands Light Railway<sup>7</sup>, London River Services<sup>8</sup> and the Croydon Tramlink<sup>9</sup>. It regulates taxis and private hire vehicles in London<sup>10</sup>. It also manages a network of main roads and is responsible for traffic lights in London<sup>11</sup>. At the date at which this volume states the law, Transport for London had not taken over responsibility for London Underground<sup>12</sup>.

1 As to the establishment of Transport for London see the Greater London Authority Act 1999 s 154(1); and PARA 269 et seq post. As to the transition from London Regional Transport to Transport for London see PARAS 271-277 post. As to the constitution of Transport for London see PARAS 278-286 post. As to the powers and functions of Transport for London see PARAS 287-321 post.

2 See *ibid* s 424(1); and PARA 213 ante. As to the establishment of the Greater London Authority see PARA 79 ante.

3 As to the Mayor of London see PARA 81 ante.

4 As to the London boroughs and their councils see PARAS 30, 35-39, 59 et seq ante.

5 As to the transport strategy see PARAS 262-268 post.

6 As to the regulation of bus services in London see ROAD TRAFFIC vol 40(3) (2007 Reissue) PARA 1231 et seq.

7 As to railways in London see PARA 256 et seq post. As to light railways see also ROAD TRAFFIC vol 40(3) (2007 Reissue) PARA 1532 et seq.

8 Local authority powers with respect to the provision of a service of passenger vessels on the River Thames were transferred to London Regional Transport: see PARA 269 post. As to the transition from London Regional Transport to Transport for London see PARAS 271-277 post. As to inland waterways generally see WATER AND WATERWAYS vol 101 (2009) PARA 713 et seq.

9 As to trams generally see ROAD TRAFFIC vol 40(3) (2007 Reissue) PARA 1532 et seq.

10 As to taxis in London see ROAD TRAFFIC vol 40(3) (2007 Reissue) PARA 1477 et seq; and as to private hire vehicles in London see ROAD TRAFFIC vol 40(3) (2007 Reissue) PARA 1500 et seq.

11 As to highways in London see HIGHWAYS, STREETS AND BRIDGES vol 21 (2004 Reissue) PARA 817 et seq. See also ROAD TRAFFIC vol 40(2) (2007 Reissue) PARA 725 et seq. As to traffic lights in London see ROAD TRAFFIC vol 40(2) (2007 Reissue) PARAS 842-844.

12 At the date at which this volume states the law, responsibility for London Underground remained with London Regional Transport: see PARA 257 post. As to London Regional Transport see PARA 256 et seq post.

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## **(ii) Other Bodies appointed by the Greater London Authority**

### ***A. IN GENERAL***

#### **219. Power of the Greater London Authority to appoint members of other bodies.**

In addition to the four functional bodies<sup>1</sup>, there are three other statutory corporate bodies, the members of which are appointed by the Greater London Authority<sup>2</sup>. These bodies are: (1) the London Transport Users' Committee<sup>3</sup>; (2) the Cultural Strategy Group<sup>4</sup>; and (3) the London Pensions Fund Authority<sup>5</sup>.

1 As to the functional bodies see PARAS 213-218 ante.

2 As to the establishment of the Greater London Authority see PARA 79 ante.

3 See PARAS 220, 322-333 post.

4 See PARAS 221-224 post.

5 See PARAS 225-231 post.

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## ***B. THE LONDON TRANSPORT USERS' COMMITTEE***

### **220. The London Transport Users' Committee.**

The Greater London Authority Act 1999 created a body corporate known as the London Transport Users' Committee<sup>1</sup>. This is a body set up to represent the interests of transport users in London. It is independent of the service providers and reports to the London Assembly<sup>2</sup>. The London Transport Users' Committee considers representations about the services and facilities operated, procured or licensed by Transport for London<sup>3</sup> and those provided by London Underground<sup>4</sup>. It also considers representations and issues relating to rail services in and around London<sup>5</sup>.

1 See the Greater London Authority Act 1999 s 247(1); and PARAS 322-333 post.

2 As to the London Assembly see PARA 82 ante.

3 As to Transport for London see PARAS 218 ante, 269-321 post.

4 At the date at which this volume states the law, responsibility for London Underground remained with London Regional Transport: see PARA 257 post. As to London Regional Transport see PARA 256 et seq post.

5 As to railways in London see PARA 256 et seq post.

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### ***C. THE CULTURAL STRATEGY GROUP FOR LONDON***

#### **221. Establishment, functions and status.**

The Greater London Authority Act 1999 established a body corporate known as the Cultural Strategy Group for London<sup>1</sup>. The Group has:

- 356 (1) the function of providing advice to the Mayor of London<sup>2</sup> on the contents and implementation of the culture strategy<sup>3</sup>; and
- 357 (2) such other functions as may be conferred or imposed on or made exercisable by it by or under any other enactment, whenever passed or made<sup>4</sup>.

The Group must formulate and submit to the Mayor a draft strategy containing proposed policies with respect to culture, media and sport in Greater London<sup>5</sup>. The Group must keep the culture strategy under review and may submit proposed revisions of it to the Mayor<sup>6</sup>. The Mayor may give the Group directions requiring the draft strategy to be formulated and submitted not later than such date as may be specified in the directions<sup>7</sup>, and the Group must comply with any such directions<sup>8</sup>.

It is within the capacity of the Group to do such things and enter into such transactions as are calculated to facilitate, or are conducive or incidental to, the discharge of its functions under the Greater London Authority Act 1999<sup>9</sup>. The Group may acquire and hold land for the purpose of enabling or facilitating the discharge of its functions<sup>10</sup>.

The Mayor may provide the Group with sums of money towards defraying expenses properly incurred by it in carrying out its functions<sup>11</sup>.

The Group is not to be regarded as the servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown<sup>12</sup>. The members and staff of the Group are not to be regarded as civil servants, and its property is not to be regarded as property of, or held on behalf of, the Crown<sup>13</sup>.

1 See the Greater London Authority Act 1999 s 375(1).

2 As to the Mayor of London see PARA 81 ante.

3 Greater London Authority Act 1999 s 375(2)(a). As to the culture strategy see PARA 198 ante.

4 Ibid s 375(2)(b).

5 Ibid s 376(1). As to Greater London see PARA 29 ante.

6 Ibid s 376(4).

7 Ibid s 376(5).

8 Ibid s 376(6).

9 Ibid s 375(3), Sch 30 para 1(3).

10 Ibid Sch 30 para 1(4).

11 Ibid Sch 30 para 7.

12 Ibid Sch 30 para 1(1).

13 Ibid Sch 30 para 1(2). As to the members of the Group see PARA 222 post; and as to the staff of the Group see PARA 223 post.

## **UPDATE**

### **221 Establishment, functions and status**

NOTE 6--Now, before submitting any proposed revisions under the 1999 Act s 376(4), the Cultural Strategy Group for London must consult each of the designated consultative bodies: s 376(4A) (added by the Greater London Authority Act 2007 s 50(2)). 'The designated consultative bodies' means: (1) Archives, Libraries and Museums London; (2) the Arts Council of England; (3) the Commission for Architecture and the Built Environment; (4) the English Sports Council; (5) the Historic Buildings and Monuments Commission for England; (6) the Museums, Libraries and Archives Council; and (7) the UK Film Council: 1999 Act s 367(10) (added by the 2007 Act s 50(5)). The Secretary of State may by order amend the 1999 Act s 367(10) by adding or removing bodies, or by amending names of bodies, but not so as to include any body that does not have functions relating to sport, culture or the arts: s 367(11) (added by the 2007 Act s 50(5)).

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## **222. Membership.**

The Cultural Strategy Group for London<sup>1</sup> consists of not fewer than 10 nor more than 25 members<sup>2</sup> who are appointed by the Mayor of London<sup>3</sup>. The members must be individuals who are representatives of such bodies concerned with relevant matters<sup>4</sup> as the Mayor considers appropriate<sup>5</sup>, or who have knowledge, experience or expertise which is relevant to the functions of the Group<sup>6</sup>. Before making any appointment of a member, the Mayor must consult such bodies or persons as he considers appropriate<sup>7</sup>. The Mayor must also appoint one of the members to chair the Group<sup>8</sup>.

The members of the Group hold and vacate office in accordance with the terms of their appointment<sup>9</sup>, and the terms of appointment of a member are such as the Mayor may determine<sup>10</sup>. However, a member may at any time resign his membership by giving notice to the Mayor<sup>11</sup>. A person who ceases to be a member is eligible for re-appointment<sup>12</sup>.

The Mayor may pay the members of the Group allowances in respect of travel or other expenses properly incurred by them<sup>13</sup>.

1 As to the establishment of the Cultural Strategy Group for London see PARA 221 ante.

2 Greater London Authority Act 1999 s 375(3), Sch 30 para 1(1).

3 Ibid Sch 30 para 1(2). As to the Mayor of London see PARA 81 ante.

4 For these purposes, 'relevant matters' means any of the matters in relation to which the culture strategy may contain policies: ibid Sch 30 para 2(6). As to the culture strategy see PARA 198 ante.

5 Ibid Sch 30 para 2(3)(a). Before making an appointment by virtue of Sch 30 para 2(3)(a), the Mayor must consult the body concerned: Sch 30 para 2(5).

6 Ibid Sch 30 para 2(3)(b).

7 Ibid Sch 30 para 2(4).

8 Ibid Sch 30 para 3.

9 Ibid Sch 30 para 4(1).

10 Ibid Sch 30 para 4(2).

11 Ibid Sch 30 para 4(3).

12 Ibid Sch 30 para 4(4).

13 Ibid Sch 30 para 5.



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### **223. Staff.**

The Cultural Strategy Group for London<sup>1</sup> may appoint such staff as it considers necessary for assisting it in the exercise of any of its functions<sup>2</sup>. The staff of the Group are appointed on such terms and conditions, including conditions as to remuneration, as the Group determines<sup>3</sup>.

1 As to the establishment of the Cultural Strategy Group for London see PARA 221 ante.

2 Greater London Authority Act 1999 s 375(3), Sch 30 para 6(1). As to the functions of the group see PARA 221 ante.

3 Ibid Sch 30 para 6(2).

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## **224. Proceedings and documents.**

The quorum of the Cultural Strategy Group for London<sup>1</sup> and the arrangements relating to its meetings are such as it may determine<sup>2</sup>. The validity of its proceedings is not affected by any vacancy among the members or any defect in the appointment of any member<sup>3</sup>, or by any failure to make, or any defect in, an appointment to chair<sup>4</sup> the Group<sup>5</sup>.

The application of the seal of the Group is authenticated by the signature<sup>6</sup> of any member, or any member of staff, of the Group who has been authorised for the purpose (whether generally or specially) by the Group<sup>7</sup>. Any document which the Group is authorised or required by or under any enactment to serve, make or issue may be signed<sup>8</sup> on its behalf by any member, or any member of staff, of the Group who has been authorised for the purpose (whether generally or specially) by the Group<sup>9</sup>. Every document purporting to be an instrument made or issued by or on behalf of the Group and to be duly executed under its seal, or to be signed<sup>10</sup> or executed by a person authorised by the Group for the purpose, is to be received in evidence and treated, without further proof, as being so made or so issued unless the contrary is shown<sup>11</sup>.

Any notice which is required or authorised, by or under any provision of any Act other than the Greater London Authority Act 1999, to be given, served or issued by, to or on the Group must be in writing<sup>12</sup>.

1 As to the establishment of the Cultural Strategy Group for London see PARA 221 ante.

2 Greater London Authority Act 1999 s 375(3), Sch 30 para 8(1).

3 Ibid Sch 30 para 8(2)(a). As to members of the Group and their appointment see PARA 222 ante.

4 Ie an appointment under ibid Sch 30 para 3: see PARA 222 ante.

5 Ibid Sch 30 para 8(2)(b).

6 In ibid Sch 30 para 9(1), the reference to the signature of a person includes a reference to a facsimile of a signature by whatever process reproduced, and, in Sch 30 para 10, the word 'signed' is to be construed accordingly: Sch 30 para 9(2).

7 Ibid Sch 30 para 9(1).

8 See note 6 supra.

9 Greater London Authority Act 1999 Sch 30 para 10(1).

10 See note 6 supra.

11 Greater London Authority Act 1999 Sch 30 para 10(2).

12 Ibid Sch 30 para 10(3).

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## ***D. THE LONDON PENSIONS FUND AUTHORITY***

### **225. Establishment.**

On 1 April 1986<sup>1</sup> all the functions of the Greater London Council<sup>2</sup> as administering authority under the regulations relating to local government superannuation then in force under the Superannuation Act 1972<sup>3</sup> became functions of the London Residuary Body<sup>4</sup>, and the superannuation fund maintained by the Greater London Council, together with all rights and liabilities in respect of it, on that date became vested in the London Residuary Body<sup>5</sup>. All liabilities of the Greater London Council in respect of pensions payable by it otherwise than under such regulations became liabilities of the London Residuary Body on 1 April 1986<sup>6</sup>. Provision was also made for the London Residuary Body to be responsible for the payment of increases in pensions which would have been payable by the Greater London Council under the Pensions (Increase) Act 1971<sup>7</sup>.

On 31 October 1989, a body corporate known as the London Pensions Fund Authority was established<sup>8</sup> and, on 1 April 1990, certain functions, property, rights and liabilities of the London Residuary Body became those of the London Pensions Fund Authority<sup>9</sup>.

The London Pensions Fund Authority is not to be regarded as acting on behalf of the Crown and neither it nor its members, officers or servants are to be regarded as Crown servants<sup>10</sup>.

1    le the date on which the Greater London Council was abolished: see the Local Government Act 1985 s 1(2).

2    As to the Greater London Council see PARA 33 ante.

3    le under the Superannuation Act 1972 s 7: see SOCIAL SECURITY AND PENSIONS vol 44(2) (Reissue) PARA 875.

4    As to the London Residuary Body see PARAS 5, 33 ante.

5    See the Local Government Act 1985 s 60(1), which is expressed to have effect except so far as otherwise provided by regulations made before 1 April 1986 under the Superannuation Act 1972 s 7 (see SOCIAL SECURITY AND PENSIONS vol 44(2) (Reissue) PARA 875). As to continuity in the exercise of functions as between the Greater London Council and the London Residuary Body see the Local Government Act 1985 s 98.

6    See *ibid* s 60(2). Section 60(2) did not apply to liabilities which by virtue of any provisions made under the Local Government Act 1985 became liabilities of the fire authority established under Pt IV (ss 23-42) (as amended) (see FIRE SERVICES vol 18(2) (Reissue) PARAS 8, 17, 32; LOCAL GOVERNMENT vol 69 (2009) PARA 47 et seq): see s 60(3).

7    See *ibid* s 61.

8    See the London Government Reorganisation (Pensions etc) Order 1989, SI 1989/1815, art 2(1).

9    See *ibid* art 3, Sch 2. Provision is made for continuity in the exercise of functions as between the London Pensions Fund Authority and the London Residuary Body: see arts 6, 7.

For certain purposes the London Pensions Fund Authority is treated as a local authority, principal council or joint authority, and is among the authorities or bodies to which the Trustee Investments Act 1961 s 11 (as amended) (local authority investment schemes), the London Government Act 1963 s 5(3) (as amended) (delegation of functions in Greater London), and the Employers' Liability (Compulsory Insurance) Act 1969 s 3(1) (employers exempted from insurers) apply: see the London Government Reorganisation (Pensions etc) Order 1989, SI 1989/1815, art 2(2), Sch 1 paras 2(g), 5, 6).

10 Local Government Act 1985 Sch 13 para 1; London Government Reorganisation (Pensions etc) Order 1989, SI 1989/1815, art 2(2), Sch 1 para 2(a). As to the members of the London Pensions Fund Authority see PARA 226 post.

## **UPDATE**

### **225 Establishment**

NOTE 6--1985 Act s 60(3) repealed: Fire and Rescue Services Act 2004 Sch 1 para 60, Sch 2.

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## **226. Membership.**

The London Pensions Fund Authority<sup>1</sup> consists of not less than 7 and not more than 11 members appointed by the Mayor of London<sup>2</sup>. The Mayor must appoint a chairman and may appoint a deputy chairman of the London Pensions Fund Authority<sup>3</sup>. Every member of the London Pensions Fund Authority holds office in accordance with the terms of his appointment<sup>4</sup>. A member, the chairman and the deputy chairman may by notice in writing to the Mayor resign his office as such<sup>5</sup>. The Mayor may remove a member from office<sup>6</sup> if that member:

- 358 (1) has become bankrupt or made an arrangement with his creditors<sup>7</sup>;
- 359 (2) is incapacitated by physical or mental illness<sup>8</sup>;
- 360 (3) has been absent from meetings of the London Pensions Fund Authority for a period of three months otherwise than for a reason approved by the London Pensions Fund Authority<sup>9</sup>; or
- 361 (4) is in the opinion of the Mayor otherwise unable or unfit to discharge the functions of a member<sup>10</sup>.

1 As to the establishment of the London Pensions Fund Authority see PARA 225 ante.

2 Greater London Authority Act 1999 s 403(1), (2)(a); London Government Reorganisation (Pensions etc) Order 1989, SI 1989/1815, Sch 1 para 1(1). A member of the London Pensions Fund Authority in receipt of remuneration is disqualified for membership of the House of Commons: see the House of Commons Disqualification Act 1975 s 4, Sch 1 Pt III (amended by the Local Government Act 1985 s 57(7), Sch 13 para 4); London Government Reorganisation (Pensions etc) Order 1989, SI 1989/1815, Sch 1 para 2(d). Appointments made by the Secretary of State under Sch 1 para 1(1), (2) in force immediately before 3 July 2000 (ie the date of the coming into force of the Greater London Authority Act 1999 s 403(1), (2)(a): see the Greater London Authority Act 1999 (Commencement No 4 and Adaptation) Order 2000, SI 2000/801, art 2(2)(c), Schedule Pt III) have effect from 3 July 2000 as if they had been made by the Mayor of London: see the Greater London Authority Act 1999 s 403(5). As to the Mayor of London see PARA 81 ante. As to the Secretary of State see PARA 12 note 2 ante.

3 Ibid s 403(1), (2)(a); London Government Reorganisation (Pensions etc) Order 1989, SI 1989/1815, Sch 1 para 1(2).

4 Local Government Act 1985 Sch 13 para 2(1); London Government Reorganisation (Pensions etc) Order 1989, SI 1989/1815, Sch 1 para 2(b).

5 Local Government Act 1985 Sch 13 para 2(2); Greater London Authority Act 1999 s 403(1), (2)(b); London Government Reorganisation (Pensions etc) Order 1989, SI 1989/1815, Sch 1 para 2(b).

6 Local Government Act 1985 Sch 13 para 2(3); Greater London Authority Act 1999 s 403(1), (2)(b); London Government Reorganisation (Pensions etc) Order 1989, SI 1989/1815, Sch 1 para 2(b).

7 Local Government Act 1985 Sch 13 para 2(3)(a); London Government Reorganisation (Pensions etc) Order 1989, SI 1989/1815, Sch 1 para 2(b).

8 Local Government Act 1985 Sch 13 para 2(3)(b); London Government Reorganisation (Pensions etc) Order 1989, SI 1989/1815, Sch 1 para 2(b).

9 Local Government Act 1985 Sch 13 para 2(3)(c); London Government Reorganisation (Pensions etc) Order 1989, SI 1989/1815, Sch 1 para 2(b).

10 Local Government Act 1985 Sch 13 para 2(3)(d); Greater London Authority Act 1999 s 403(1), (2)(b); London Government Reorganisation (Pensions etc) Order 1989, SI 1989/1815, Sch 1 para 2(b).



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## **227. Remuneration etc of members.**

The London Pensions Fund Authority<sup>1</sup> must pay to each member such remuneration and allowances, if any, as the Mayor of London<sup>2</sup> may determine<sup>3</sup>. As regards any member of the London Pensions Fund Authority in whose case the Mayor may so determine, the London Pensions Fund Authority must pay or make provision for the payment of such sums by way of pension, allowances and gratuities to or in respect of him as the Mayor may determine<sup>4</sup>. Where a person ceases to be a member of the London Pensions Fund Authority otherwise than on the expiration of his term of office and it appears to the Mayor that there are special circumstances which make it right for him to receive compensation, the London Pensions Fund Authority must pay as compensation to that person such amount as the Mayor may determine<sup>5</sup>.

1 As to the establishment of the London Pensions Fund Authority see PARA 225 ante.

2 As to the Mayor of London see PARA 81 ante.

3 Local Government Act 1985 s 57(7), Sch 13 para 3(1); Greater London Authority Act 1999 s 403(1), (2)(c); London Government Reorganisation (Pensions etc) Order 1989, SI 1989/1815, art 2(2), Sch 1 para 2(c).

4 Local Government Act 1985 Sch 13 para 3(2); Greater London Authority Act 1999 s 403(1), (2)(c); London Government Reorganisation (Pensions etc) Order 1989, SI 1989/1815, Sch 1 para 2(c). Where an employee of the London Pensions Fund Authority becomes a member of it and immediately before becoming a member was by reference to his employment by it participating in a superannuation scheme, the London Pensions Fund Authority may make provision for him to continue to participate in that scheme, on terms and conditions determined by it with the consent of the Mayor, as if his service as a member were service as an employee; and any such scheme has effect subject to any provision made under the Local Government Act 1985 Sch 13 para 3(4): Sch 13 para 3(4); Greater London Authority Act 1999 s 403(1), (2)(c); London Government Reorganisation (Pensions etc) Order 1989, SI 1989/1815, Sch 1 para 2(c).

5 Local Government Act 1985 Sch 13 para 3(3); Greater London Authority Act 1999 s 403(1), (2)(c); London Government Reorganisation (Pensions etc) Order 1989, SI 1989/1815, Sch 1 para 2(c).

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## **228. Proceedings and documents.**

The London Pensions Fund Authority<sup>1</sup> regulates its own proceedings<sup>2</sup>. The validity of any proceedings of the Authority is not affected by any vacancy among its members or of any defect in the appointment of any of its members<sup>3</sup>. The Public Bodies (Admission to Meetings) Act 1960 does not apply to the Authority<sup>4</sup>.

The application of the London Pensions Fund Authority's seal must be authenticated by the signature of the chairman or a member or officer of the London Pensions Fund Authority authorised either generally or specially by that Authority for that purpose<sup>5</sup>. Any document purporting to be a document duly executed under the seal of the London Pensions Fund Authority is, unless the contrary is proved, deemed to be so executed<sup>6</sup>.

1 As to the establishment of the London Pensions Fund Authority see PARA 225 ante.

2 Local Government Act 1985 s 57(7), Sch 13 para 5(1); London Government Reorganisation (Pensions etc) Order 1989, SI 1989/1815, art 2(2), Sch 1 para 2(e).

3 Local Government Act 1985 Sch 13 para 5(2); London Government Reorganisation (Pensions etc) Order 1989, SI 1989/1815, Sch 1 para 2(e).

4 Ibid Sch 1 para 8. As to the Public Bodies (Admission to Meetings) Act 1960 see LOCAL GOVERNMENT vol 69 (2009) PARAS 641-651.

5 London Government Reorganisation (Pensions etc) Order 1989, SI 1989/1815, Sch 1 para 3(1).

6 Ibid Sch 1 para 3(2).



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## **229. Powers in relation to land.**

Without prejudice to any powers of the London Pensions Fund Authority<sup>1</sup> to acquire or to dispose of land as an investment of the superannuation fund, it may:

- 362 (1) acquire by agreement any land required by it for the carrying out of its functions<sup>2</sup>; or
- 363 (2) subject to any directions given to it by the Secretary of State<sup>3</sup>, dispose of any land held by it in such manner as it wishes<sup>4</sup>.

1 As to the establishment of the London Pensions Fund Authority see PARA 225 ante.

2 London Government Reorganisation (Pensions etc) Order 1989, SI 1989/1815, art 2(2), Sch 1 para 4(a).

3 As to the Secretary of State see PARA 12 note 2 ante. As to the giving of directions see PARA 13 ante.

4 London Government Reorganisation (Pensions etc) Order 1989, SI 1989/1815, Sch 1 para 4(b).

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### **230. Reports, information, accounts and financial statements.**

The London Pensions Fund Authority<sup>1</sup> must publish an annual report on the discharge of its functions<sup>2</sup>. It must send to the Mayor of London<sup>3</sup> a copy of any such report<sup>4</sup> made by it and must furnish the Mayor with such information relating to the discharge of its functions as he may require, and for that purpose must permit any person authorised by him to inspect and make copies of any accounts or other documents of the London Pensions Fund Authority and must afford such explanation of them as that person or the Mayor may require<sup>5</sup>.

The London Pensions Fund Authority is required to keep proper accounts and proper records in relation to them<sup>6</sup>, and it must prepare a statement of accounts in respect of each financial year<sup>7</sup>. It is a 'relevant body' for the purposes of the financial administration provisions<sup>8</sup> in the Local Government Finance Act 1988<sup>9</sup> and its accounts are subject to audit in accordance with the Audit Commission Act 1998<sup>10</sup>.

For each financial year<sup>11</sup> the London Pensions Fund Authority must prepare:

- 364 (1) a statement containing a draft budget for that financial year and specifying the amount of any levy which the London Pensions Fund Authority proposes to make on any class of authority in respect of that year by virtue of any levying bodies regulations<sup>12</sup>; and
- 365 (2) a statement of the London Pensions Fund Authority's strategic plans and objectives for that financial year and the two following financial years<sup>13</sup>.

It must submit these statements to the Mayor on or before 31 December in the preceding financial year<sup>14</sup>. If the Mayor gives the London Pensions Fund Authority any comments on a statement submitted in accordance with head (1) above, and those comments are given on or before 31 January immediately following the submission of the statement, the London Pensions Fund Authority must have regard to the comments in setting its budget for the financial year to which the statement relates<sup>15</sup>.

1 As to the establishment of the London Pensions Fund Authority see PARA 225 ante.

2 Local Government Act 1985 s 57(7), Sch 13 para 10(1); London Government Reorganisation (Pensions etc) Order 1989, SI 1989/1815, art 2(2), Sch 1 para 2(f).

3 As to the Mayor of London see PARA 81 ante.

4 Local Government Act 1985 Sch 13 para 10(2); Greater London Authority Act 1999 s 403(1), (2)(d), (4); London Government Reorganisation (Pensions etc) Order 1989, SI 1989/1815, Sch 1 para 2(f). As to the duty of the London Pensions Fund Authority to provide information relating to its accounts or statement of accounts see the Greater London Authority Act 1999 s 135; and PARA 248 post.

5 Local Government Act 1985 Sch 13 para 10(3); Greater London Authority Act 1999 s 403(1), (2)(d), (4); London Government Reorganisation (Pensions etc) Order 1989, SI 1989/1815, Sch 1 para 2(f).

6 Local Government Act 1985 s 78(1); London Government Reorganisation (Pensions etc) Order 1989, SI 1989/1815, art 7(1).

7 Local Government Act 1985 s 78(2); London Government Reorganisation (Pensions etc) Order 1989, SI 1989/1815, art 7(1). The statement must comply with any directions of the Secretary of State, with the consent of the Treasury, as to the information to be contained in the statement, the manner in which the statement is to be presented or the methods and principles according to which the statement is to be prepared: Local Government Act 1985 s 78(3); London Government Reorganisation (Pensions etc) Order 1989, SI 1989/1815, art 7(1). The Secretary of State may give directions to the London Pensions Fund Authority requiring it: (1) to keep accounts in respect of such matters and records relating to them as may be specified in the direction; (2) to comply with such methods and principles as may be so specified with respect to any accounts or records kept by it; (3) to make such provision as he may specify for the exercise of any rights of public inspection; and (4) to take such steps as he may specify to inform the public of any such rights as are referred to in head (3) supra: art 7(2). It is the duty of the London Pensions Fund Authority to comply with any such directions: art 7(2). As to the Secretary of State see PARA 12 note 2 ante. As to the Treasury see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARAS 512-517. As to the giving of directions see PARA 13 ante.

8 le the provisions of the Local Government Finance Act 1988 Pt VIII (ss 111-116) (as amended): see LOCAL GOVERNMENT vol 29(1) (Reissue) PARA 625 et seq. As to financial administration see LOCAL GOVERNMENT vol 29(1) (Reissue) PARAS 624-627.

9 See the Local Government Finance Act 1988 s 111(2)(bd) (added by the Greater London Authority Act 1999 s 128(2)); and LOCAL GOVERNMENT vol 29(1) (Reissue) PARA 625. The London Pensions Fund Authority must make arrangements for the proper administration of its financial affairs and must secure that one of its officers has responsibility for the administration of those affairs: Local Government Act 1985 s 73; London Government Reorganisation (Pensions etc) Order 1989, SI 1989/1815, art 9.

10 See the Audit Commission Act 1998 s 2(2), Sch 2 para 1(bd) (added by the Greater London Authority Act 1999 s 133(1)). The Audit Commission Act 1998 is further applied to the London Pensions Fund Authority with modifications by the London Government Reorganisation (Pensions etc) Order 1989, SI 1989/1815, art 7(3), (4). As to the audit of accounts under the Audit Commission Act 1998 see LOCAL GOVERNMENT vol 69 (2009) PARAS 757-779.

11 The Greater London Authority Act 1999 s 402 (see the text and notes 12-15 infra) has effect in relation to financial years beginning on or after 1 April 2001: s 402(4). For the meaning of 'financial year' see PARA 131 note 21 ante.

12 Ibid s 402(1)(a). For these purposes, 'levying bodies regulations' means regulations made under the Local Government Finance Act 1988 s 74(2) (see LOCAL GOVERNMENT vol 29(1) (Reissue) PARA 530), and having effect in relation to the London Pensions Fund Authority by reason of a levying power which it would have, apart from s 117 (as amended) (see LOCAL GOVERNMENT vol 29(1) (Reissue) PARA 530): Greater London Authority Act 1999 s 402(3). 'Levying power' means a power to make a levy conferred by or under any Act other than the Local Government Finance Act 1988: Greater London Authority Act 1999 s 402(3). As to the power to levy see PARA 231 post.

13 Ibid s 402(1)(b).

14 Ibid s 402(1).

15 Ibid s 402(2).

## UPDATE

### 230 Reports, information, accounts and financial statements

TEXT AND NOTES 6, 7--1985 Act s 78 repealed: Statute Law (Repeals) Act 2004.

NOTE 8--Local Government Act 1985 s 73 amended: Local Democracy, Economic Development and Construction Act 2009 Sch 6 para 61.

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/3. THE GREATER LONDON AUTHORITY/(6) STATUTORY BODIES OPERATING UNDER THE GREATER LONDON AUTHORITY/(ii) Other Bodies appointed by the Greater London Authority/D. THE LONDON PENSIONS FUND AUTHORITY/231. Power to make levies.

### **231. Power to make levies.**

The London Pensions Fund Authority<sup>1</sup> may in respect of any financial year<sup>2</sup> make one or more levies in order to meet its net expenditure<sup>3</sup>. Any levy must be made on one of the following classes of authorities:

- 366 (1) all London borough councils<sup>4</sup> and the Common Council of the City of London<sup>5</sup>;  
or
- 367 (2) inner London borough councils and the Common Council of the City of London<sup>6</sup>; or
- 368 (3) outer London borough councils<sup>7</sup>.

A levy is to be made by serving on each authority of the relevant class a written demand<sup>8</sup> stating the date or dates on or before which a payment in respect of a levy is required to be made and the amount of that payment<sup>9</sup>.

1 As to the establishment of the London Pensions Fund Authority see PARA 225 ante.

2 I.e. any financial year beginning on or after 1 April 1990: see the London Government Reorganisation (Pensions etc) Order 1989, SI 1989/1815, art 4(1). For the meaning of 'financial year' see PARA 131 note 21 ante. The London Pensions Fund Authority was given interim borrowing powers for the purposes of defraying its expenses before 1 April 1990: see art 5.

3 Ibid art 4(1). For these purposes, 'net expenditure' means all expenditure and costs incurred by the London Pensions Fund Authority less receipts (if any), but excluding any expenditure or costs payable out of, or receipts which fall to be credited to, the superannuation fund maintained by it under the Local Government Superannuation Regulations 1986, SI 1986/24 (revoked): London Government Reorganisation (Pensions etc) Order 1989, SI 1989/1815, art 4(6).

4 As to the London boroughs and their councils see PARAS 30, 35-39, 59 et seq ante.

5 London Government Reorganisation (Pensions etc) Order 1989, SI 1989/1815, art 4(2)(i). As to the Common Council of the City of London see PARA 51 et seq ante.

6 Ibid art 4(2)(ii). As to the inner London boroughs see PARA 30 ante.

7 Ibid art 4(2)(iii). As to the outer London boroughs see PARA 30 ante.

8 A demand must be served on, or information as to the amount to be demanded must be given to each authority of a class on which a levy is made before 14 February in the financial year preceding that to which the levy relates: ibid art 4(5).

9 Ibid art 4(4). The amount to be paid by each of the authorities of any class on which a levy is made must be proportionate to its population: see art 4(3).

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/3. THE GREATER LONDON AUTHORITY/(7) FINANCE/(i) Income of the Greater London Authority and the Functional Bodies/A. IN GENERAL/232. Sources of income of the Greater London Authority and the functional bodies.

## **(7) FINANCE**

### **(i) Income of the Greater London Authority and the Functional Bodies**

#### **A. IN GENERAL**

##### **232. Sources of income of the Greater London Authority and the functional bodies.**

The income of the Greater London Authority<sup>1</sup> is principally derived from: (1) a precept on the billing authorities in Greater London<sup>2</sup> who levy and collect council tax in their respective areas; and (2) grants by the Secretary of State<sup>3</sup>. The Authority's power to issue precepts derives from its status as a major precepting authority for the purposes of the Local Government Finance Act 1992<sup>4</sup>, and the provisions of that Act relating to the issue of precepts and the calculation of council tax<sup>5</sup> are applied, with modifications, in relation to the Authority<sup>6</sup>. The grants of which the Authority is in receipt are revenue support grant<sup>7</sup>, additional grant<sup>8</sup>, relevant special grant<sup>9</sup>, redistributed non-domestic rates<sup>10</sup> and a new form of grant called general GLA grant<sup>11</sup>. In each financial year the Authority must pay to each of the functional bodies, out of the aggregate of the income raised from precepts<sup>12</sup> and from the statutory payments made to the Authority by the billing authorities<sup>13</sup>, combined with the income deriving from the various grants to which the Authority is entitled and redistributed non-domestic rates, the amount required by that body in accordance with the Authority's budgetary calculations<sup>14</sup>.

The Authority may also receive emergency financial assistance in respect of expenditure incurred to safeguard life or property or prevent suffering or severe inconvenience, in its area or among its inhabitants, where an emergency or disaster involving destruction of or danger to life or property has occurred<sup>15</sup>.

1 As to the establishment of the Greater London Authority see PARA 79 ante. As to the special financial provisions applicable to the Greater London Authority see PARAS 233-253 post. For general provisions as to local government finance see LOCAL GOVERNMENT vol 29(1) (Reissue) PARAS 514-618, 624-634.

2 For the purposes of the Local Government Finance Act 1992, and so far as relevant to Greater London, a billing authority is a district council or London borough council, or the Common Council of the City of London: s 1(2) (substituted by the Local Government (Wales) Act 1994 s 35(5)). As to the London boroughs and their councils see PARAS 30, 35-39, 59 et seq ante. As to the Common Council of the City of London see PARA 51 ante. As to local authorities generally see LOCAL GOVERNMENT vol 69 (2009) PARA 22 et seq. As to Greater London see PARA 29 ante.

3 As to the Secretary of State see PARA 12 note 2 ante.

4 See the Local Government Finance Act 1992 s 39(1)(aa) (added by the Greater London Authority Act 1999 s 39(1), (2)). The functions conferred or imposed on the Greater London Authority under or by virtue of the Greater London Authority Act 1999 Pt III (ss 81-140) are functions of the Authority which are exercisable by the Mayor of London acting on behalf of the Authority: s 140(1). As to the Mayor of London see PARA 81 ante. As to the functions of the Greater London Authority see PARA 164 et seq ante.

5 See the Local Government Finance Act 1992 Pt I Ch IV (ss 39-52) (as amended) (see LOCAL GOVERNMENT vol 29(1) (Reissue) PARAS 524-529).

6 See LOCAL GOVERNMENT vol 29(1) (Reissue) PARAS 524-529. The principal modifications are that the Greater London Authority Act 1999 ss 85, 86 (which are concerned with the calculation of the Authority's budget

requirements) apply to the Authority in place of the Local Government Finance Act 1992 s 43 (as amended) (see PARA 233 post), and the Greater London Authority Act 1999 ss 88-90 (which make provision for the calculation of council tax) apply to the Authority in place of the Local Government Finance Act 1992 s 44 (as amended) and s 45 (see PARA 235 post). In setting the amounts of council tax for each financial year, billing authorities in Greater London are required to take account, in addition to those calculations specified in s 30(1) (a) (see RATING AND COUNCIL TAX vol 39(1B) (Reissue) PARA 260) of amounts calculated in accordance with the Greater London Authority Act 1999 ss 85-90 or, by way of substitute, ss 85, 86, 88-90 (see PARAS 233, 235 post): see the Local Government Finance Act 1992 s 30 (as amended); and RATING AND COUNCIL TAX vol 39(1B) (Reissue) PARA 260.

7 Greater London Authority Act 1999 s 102(2)(a). As to revenue support grant see LOCAL GOVERNMENT vol 29(1) (Reissue) PARA 532 et seq.

8 Ibid s 102(2)(b). As to additional grant see LOCAL GOVERNMENT vol 29(1) (Reissue) PARA 535.

9 Ibid s 102(2)(c). For the purposes of s 102, 'relevant special grant' is to be construed in accordance with the Local Government Finance Act 1992 s 32(12) (as amended): Greater London Authority Act 1999 s 102(8).

10 Ibid s 102(2)(e). As to the collection and distribution of non-domestic rates see RATING AND COUNCIL TAX vol 39(1B) (Reissue) PARA 3 et seq.

11 Ibid s 102(2)(d). As to general GLA grant, which is expressed to be made for the purposes of the Authority and the functional bodies, see PARA 238 post. As to the functional bodies see PARAS 213-218 ante. Where the Authority receives any grant or other payment made only for the purposes, or particular purposes, of a functional body, the Authority must forthwith account for the grant or other payment to the functional body concerned and pay it over to that body (s 103(1)), although this does not apply in relation to any sum received in respect of an item which falls within any of s 102(2)(a)-(g) (see PARA 239 post) (s 103(2)).

The Greater London Authority Act 1999 also created another new type of grant called the 'GLA transport grant' (see PARA 238 post), sums received in respect of which are expressed to be for the purposes of Transport for London only (see s 101(2); and as to Transport for London see PARAS 218 ante, 269 et seq post) and which is accordingly not factored into the provisions relating to the distribution of the Authority's income to the functional bodies.

12 Ibid s 102(2)(f).

13 Ibid s 102(2)(g). The reference in the text to the statutory payments made to the Authority by the billing authorities is a reference to the making of such payments to the Authority in accordance with regulations made by the Secretary of State under the Local Government Finance Act 1988 s 99(3) (as substituted); see further PARA 239 note 10 post.

14 Greater London Authority Act 1999 s 102(1); and see further PARA 239 post. The reference in the text to the Authority's budgetary calculations is a reference to the calculations under s 85(4)-(7) (see PARA 233 post). As to the payment of capital and revenue grants to the functional bodies para 245 post.

15 See the Local Government and Housing Act 1989 s 155 (as amended); and LOCAL GOVERNMENT vol 29(1) (Reissue) PARA 541. Expenditure incurred in such circumstances and for such purposes by the London Fire and Emergency Planning Authority, the Metropolitan Police Authority or Transport for London is treated for the purposes of s 155 (as amended) as expenditure incurred by the Greater London Authority (s 155(1A)) (s 155(1A), (1B) added by the Greater London Authority Act 1999 s 104(1), (2)) (see LOCAL GOVERNMENT vol 29(1) (Reissue) PARA 541), and to the extent that any financial assistance given to the Authority under the Local Government and Housing Act 1989 s 155 (as amended) is referable to expenditure incurred by the London Fire and Emergency Planning Authority, the Metropolitan Police Authority or Transport for London, the financial assistance is to be treated for the purposes of the Greater London Authority Act 1999 s 103 (Authority's duty to account to functional bodies for their grants) (see note 11 supra) as a payment made to the Greater London Authority for the purposes of that body: Local Government and Housing Act 1989 s 155(1B) (as so added). As to the London Fire and Emergency Planning Authority see PARA 217 ante; and FIRE SERVICES vol 18(2) (Reissue) PARA 17. As to the Metropolitan Police Authority see PARA 216 ante; and POLICE vol 36(1) (2007 Reissue) PARAS 147-155.

## UPDATE

### 232 Sources of income of the Greater London Authority and the functional bodies

TEXT AND NOTES--As to expenditure grant and its application to the Greater London Authority see LOCAL GOVERNMENT vol 29(1) (Reissue) PARA 544A.

TEXT AND NOTES 7-14--Greater London Authority Act 1999 s 102 modified in relation to the financial year beginning on 1 April 2008 by the Local Authorities (Alteration of Requisite Calculations) (England) Regulations 2008, SI 2008/227, and in relation to the financial year beginning on 1 April 2009 by the Local Authorities (Alteration of Requisite Calculations) (England) Regulations 2009, SI 2009/206.

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## **B. CALCULATION OF BUDGET REQUIREMENTS AND COUNCIL TAX**

### **(A) CALCULATION OF BUDGET REQUIREMENTS**

#### **233. Calculation of component and consolidated budget requirements.**

In relation to each financial year<sup>1</sup>, the Greater London Authority<sup>2</sup> must make certain calculations<sup>3</sup> in order to determine its annual budget requirements<sup>4</sup>. The Authority must, in the case of each constituent body (that is the Authority<sup>5</sup> and each of the functional bodies<sup>6</sup>), calculate<sup>7</sup>:

- 369 (1) the aggregate of:
  - 1
  1. (a) the expenditure the Authority estimates the body will incur<sup>8</sup> in the year in performing its functions and will charge to a revenue account for the year, other than expenditure which the Authority estimates will be so incurred in pursuance of regulations<sup>9</sup>;
  2. (b) such allowance as the Authority estimates will be appropriate for contingencies in relation to expenditure to be charged to a revenue account for the year<sup>10</sup>;
  3. (c) the financial reserves which the Authority estimates it will be appropriate for the body to raise in the year for meeting the body's estimated future expenditure<sup>11</sup>; and
  4. (d) such of the body's financial reserves as are sufficient to meet so much of the amount estimated by the Authority to be a revenue account deficit of the body for any earlier financial year as has not already been provided for<sup>12</sup> (although the expenditure so aggregated excludes expenditure which the Authority estimates will be in making payments to billing authorities in pursuance of the Authority's role as a precepting authority<sup>13</sup>); and
- 2
- 370 (2) the aggregate of:
  - 3
  5. (a) the sums which the Authority estimates will be payable to the body for the year and in respect of which amounts will be credited to a revenue account for the year, other than sums which the Authority estimates will be so payable<sup>14</sup>: (i) in respect of redistributed non-domestic rates, revenue support grant, additional grant, relevant special grant<sup>15</sup>, police grant<sup>16</sup> or general GLA grant<sup>17</sup>; (ii) in respect of any precept issued by the Authority<sup>18</sup>; or (iii) in pursuance of regulations<sup>19</sup>; and
  6. (b) the amount of the body's financial reserves which the Authority estimates that the body will use in order to provide for the items mentioned in heads (1)(a) and (b) above<sup>20</sup>.
- 4

If, in the case of any constituent body, the aggregate calculated under head (1) above exceeds that calculated under head (2) above the Authority must calculate the amount equal to the



difference<sup>21</sup> and the amount so calculated is the body's component budget requirement for the year<sup>22</sup>; failing that, however<sup>23</sup>, the body's component budget requirement for the year is nil<sup>24</sup>.

The Authority must also calculate the aggregate of the component budget requirements of each of the constituent bodies and that aggregate is the Authority's consolidated budget requirement for the year<sup>25</sup>.

If the amount calculated by the Authority as its consolidated budget requirement for a financial year<sup>26</sup> is, by reference to criteria specified and published by the Secretary of State<sup>27</sup>, excessive, the Authority must pay a sum to each billing authority to which the Authority has power to issue a precept<sup>28</sup>.

Where the Authority has made calculations in relation to a financial year in accordance with these provisions<sup>29</sup>, it may make calculations in substitution in relation to the year<sup>30</sup>.

1 For the meaning of 'financial year' see PARA 131 note 21 ante.

2 As to the establishment of the Greater London Authority see PARA 79 ante. The functions conferred or imposed on the Authority under or by virtue of the Greater London Authority Act 1999 Pt III (ss 81-140) are functions of the Authority which are exercisable by the Mayor of London acting on behalf of the Authority: s 140(1). Section 140(1) does not apply in relation to any function expressly conferred or imposed on the London Assembly: s 140(2). As to the Mayor of London and the London Assembly see PARAS 81-82 ante. As to the functions of the Greater London Authority see PARA 164 et seq ante. For general provisions as to local government finance see LOCAL GOVERNMENT vol 29(1) (Reissue) PARAS 514-618, 624-634.

3 The function of making a calculation in accordance with any of *ibid* ss 85-90 (and of making a substitute calculation in accordance with any of ss 85, 86 and 88-90, Sch 7), may be discharged only by the Authority: Local Government Finance Act 1992 s 67(1), (2)(bb), (bc) (s 67(1) amended by the Greater London Authority Act 1999 s 108(1), (2); Local Government Finance Act 1992 s 67(2)(bb), (bc) added by the Greater London Authority Act 1999 s 108(1), (3)). Those functions must be discharged on behalf of the Authority in accordance with the provisions of the Greater London Authority Act 1999 (see PARAS 164-169 ante) but only by the Mayor, the Assembly or the Mayor and Assembly acting jointly (except that where s 87, Sch 6 (see PARA 234 post) makes provision enabling a function to be discharged by a committee or other representatives of the Assembly, the function may be discharged by such a committee or representatives in accordance with the provisions of Sch 6): Local Government Finance Act 1992 s 67(3A), (3B) (added by the Greater London Authority Act 1999 s 108(1), (5)). As to exercise of the functions of the Mayor and the Assembly see note 2 *supra*. A calculation made in accordance with any of ss 85-90 (or a substitute calculation made in accordance with any of ss 85, 86, 88-90 and Sch 7) may not be questioned except by an application for judicial review: Local Government Finance Act 1992 s 66(2)(cc), (cd) (added by Greater London Authority Act 1999 s 107). If on such an application the court decides to grant relief, it must quash the calculation: Local Government Finance Act 1992 s 66(3). As to judicial review generally see JUDICIAL REVIEW.

Regulations under the Local Government Finance Act 1988 s 74(2) may provide that the Greater London Authority, in making calculations (originally or by way of substitute) in accordance with the Greater London Authority Act 1999 ss 85 and 86, may anticipate a levy for itself or a functional body (except the Metropolitan Police Authority): Local Government Finance Act 1988 s 74(4)(bb) (added by Greater London Authority Act 1999 s 105). As to levies see further LOCAL GOVERNMENT vol 29(1) (Reissue) PARA 530.

Where the Authority has made calculations in relation to a financial year in accordance with ss 85-90 and the Local Government Finance Act 1992 ss 47, 48 (as amended) (or substitute calculations in relation to a financial year in accordance with the Greater London Authority Act 1999 ss 85, 86 and 88-90, Sch 7 and the Local Government Finance Act 1992 ss 47, 48), but it appears to the Secretary of State that the Metropolitan Police Authority, in order to restore or maintain an efficient and effective police force for its area, requires a greater component budget requirement than that previously calculated under the Greater London Authority Act 1999 s 85, the Secretary of State may direct the Authority that there must be a component budget requirement for the Metropolitan Police Authority for the year which is not less than such amount as may be specified in the direction: s 95(1), (2); and see also ss 95(3)-(13), 96. As to the procedure for the making of substitute calculations see ss 95(14), 98, Sch 7; and PARA 236 post. As to the Metropolitan Police Authority see PARA 216 ante; and as to finance of police authorities see POLICE vol 36(1) (2007 Reissue) PARA 167. As to the Secretary of State see PARA 12 note 2 ante. For the meaning of 'component budget requirement' see the text to notes 21-24 *infra*. As to the giving of directions see PARA 13 ante.

4 *Ibid* s 85(2). The Local Government Finance Act 1992 s 43 (as amended) (see LOCAL GOVERNMENT vol 29(1) (Reissue) PARA 525) does not apply in relation to the Authority, and the Greater London Authority Act 1999 ss 85 and 86 have effect in relation to the Authority in its place: s 85(1).

5 Ibid s 85(3)(a).

6 Ibid s 85(3)(b). As to the functional bodies see PARAS 213-218 ante.

7 Ibid s 85(3). An amount may not be brought into account under s 85(4) or (5) in the application of the subsection in relation to the Authority as a constituent body if the amount (or an amount which represents it) falls to be brought into account under the same subsection in its application in relation to a functional body: s 86(1).

8 The reference in ibid ss 85, 86 (as amended) to expenditure incurred by a body in any financial year includes (whether or not giving rise to actual payments): (1) any amount which does not form part of the authority's capital receipts and which is set aside for the year by the body as provision to meet credit liabilities, otherwise than by virtue of any of the Local Government and Housing Act 1989 s 63(2)-(4) (s 62(4) as amended) (see LOCAL GOVERNMENT vol 29(1) (Reissue) PARA 577) (s 41(3)(a); Greater London Authority Act 1999 ss 85(9), 86(6)); and (2) any other amount which is set aside for the year by the body as reasonably necessary for the purpose of providing for any liability or loss which is likely or certain to be incurred but is uncertain as to the amount or the date on which it will arise (or both) (Local Government and Housing Act 1989 s 41(3)(b); Greater London Authority Act 1999 ss 85(9), 86(6)).

9 Ibid s 85(4)(a). The reference in the text to regulations is a reference to regulations under the Local Government Finance Act 1988 s 99(3) (s 99 as substituted) (see LOCAL GOVERNMENT vol 29(1) (Reissue) PARA 549). In estimating expenditure under the Greater London Authority Act 1999 s 85(4)(a) in the case of any constituent body other than the Metropolitan Police Authority, the Greater London Authority must take into account the amount of any levy issued to the body for the year, but (except as provided by regulations under the Local Government Finance Act 1988 s 74 (as amended) (see LOCAL GOVERNMENT vol 29(1) (Reissue) PARA 530), must not anticipate a levy not issued: Greater London Authority Act 1999 s 86(2).

The Secretary of State may by regulations do one or both of the following: (1) alter the constituents of any calculation to be made under s 85(4) or s 85(5) (whether by adding, deleting or amending items) (s 86(5)(a)); (2) alter the rules governing the making of any calculation under s 85(4) or (5) (whether by deleting or amending s 85(2)-(4) (see the text and notes 4-8 supra, 10-12 infra), or any of them, or by adding other provisions, or by a combination of those methods) (s 86(5)(b)). As to the making of regulations generally see PARA 13 ante. The Local Authorities (Alteration of Requisite Calculations) (England) Regulations 2001, SI 2001/216, partly have effect (in relation to the financial year beginning on 1 April 2001) under the Greater London Authority Act 1999 s 86(5) (for the effect of these regulations see the text and note 13 infra).

Where the Authority has made calculations in accordance with s 85(4)-(7) (see the text and notes 10-24 infra) (whether originally or by way of substitute), and the Mayor is of the opinion that, because of an emergency or disaster involving destruction of or danger to life or property, it is appropriate to recalculate any component budget requirements, the Authority may make calculations in substitution in relation to the year in accordance with s 85(4)-(7): see s 97(1). None of the substitute calculations has any effect if it involves any change in the sums paid or to be paid to any of the functional bodies otherwise than out of the aggregate specified in s 102(2) (see PARA 239 post) or any change in the Authority's consolidated budget requirement for the year: s 97(2). Any substitute calculations under s 97 must be made in accordance with Sch 7: see s 97(3); and see PARA 236 post.

10 Ibid s 85(4)(b). See note 9 supra.

11 Ibid s 85(4)(c). For the purposes of s 85(4)(c) a body's estimated future expenditure is:

50 (1) that which the Authority estimates the body will incur in the financial year following the year in question, will charge to a revenue account for the year and will have to defray in the year before (a) sums which will be payable to it for the year, and (b) sums in respect of which amounts will be credited to a revenue account for the year, are sufficiently available (s 86(4)(a)); and

51 (2) that which the Authority estimates the body will incur in the financial year referred to in s 86(4)(a) or any subsequent financial year in performing its functions and which will be charged to a revenue account for that or any other year (s 86(4)(b)). See note 9 supra.

12 Ibid s 85(4)(d). See note 9 supra.

13 Ibid s 85(4A) (added by the Local Authorities (Alteration of Requisite Calculations) (England) Regulations 2001, SI 2001/216, reg 6 in relation to the financial year beginning on 1 April 2001). The reference in the text to the making of payments to billing authorities in pursuance of the Authority's role as a precepting authority is a reference to making payments in accordance with the Local Government Act 1999 s 31(3).

14 Greater London Authority Act 1999 s 85(5)(a). See note 9 supra.

15 In *ibid* Pt III Ch I (ss 81-99) (as amended) 'relevant special grant' is construed in accordance with the Local Government Finance Act 1992 s 32(12) (as amended): Greater London Authority Act 1999 s 99.

16 In *ibid* Pt III Ch I (as amended) 'police grant' is construed in accordance with the Local Government Finance Act 1992 s 32(12) (as amended) (see RATING AND COUNCIL TAX vol 39(1B) (Reissue) PARA 262): Greater London Authority Act 1999 s 99.

17 *Ibid* s 85(5)(a)(i). See note 9 *supra*. As to general GLA grant see PARA 238 *post*.

18 *Ibid* s 85(5)(a)(ii). See note 9 *supra*.

19 *Ibid* s 85(5)(a)(iii). The reference in the text to regulations is a reference to regulations under the Local Government Finance Act 1988 s 99(3) (s 99 as substituted) (see LOCAL GOVERNMENT vol 29(1) (Reissue) PARA 549). See note 9 *supra*.

20 Greater London Authority Act 1999 s 85(5)(b). See note 9 *supra*.

21 *Ibid* s 85(6)(a). See note 9 *supra*.

22 *Ibid* s 85(6)(b). See note 9 *supra*.

23 *Ie* if, in the case of any constituent body, the aggregate calculated under head (1) in the text does not exceed that calculated under head (2) in the text.

24 Greater London Authority Act 1999 s 85(7). See note 9 *supra*.

25 *Ibid* s 85(8).

26 *Ie* the amount calculated by the Authority in relation to the year under *ibid* s 85(8) (see the text and note 25 *supra*).

27 The Secretary of State's criteria may refer to such factors as he thinks fit, and the factors may differ from factors relevant for the purposes of the Local Government Finance Act 1992 Pt I Ch IVA (ss 52A-52Z) (as added and amended) (see LOCAL GOVERNMENT vol 29(1) (Reissue) PARAS 528-529) or Pt I Ch V (repealed): see the Local Government Act 1999 s 31(4)(a). Different factors may be applied with regard to different authorities or categories of authority: s 31(4)(b). Any category determined for the purpose may be different from any category or class relevant for the purposes of the Local Government Finance Act 1992 Pt I Ch IVA or Pt I Ch V (repealed): see the Local Government Act 1999 s 31(4)(c).

28 See *ibid* s 31(1)-(3), (10)(a) (s 31(10)(a) amended by the Greater London Authority Act 1999 s 136(1)). As to the billing authorities to which the Authority has power to issue a precept see PARA 232 note 2 *ante*. The Secretary of State may by regulations make provision as to how sums are to be calculated (Local Government Act 1999 s 31(5)(a)); as to the manner in which sums are to be paid (s 31(5)(b)); as to the period within which, or time or times at which, sums or instalments of sums are to be paid (s 31(5)(c)); as to the recovery (by deduction or otherwise) of any excess amount paid by the Authority in purported discharge of any liability arising by virtue of s 31 (as amended) (s 31(5)(d)); that if a sum or instalment is not paid to a billing authority in accordance with s 31 and the regulations, the authority is to be entitled to interest from the Authority on the amount of the sum or instalment (s 31(5)(e)); requiring the Authority to supply information to a billing authority to which the Authority has power to issue a precept (s 31(5)(f)); as to the form and manner in which the information is to be supplied (s 31(5)(g)); and as to the time when the information is to be supplied (s 31(5)(h)). The regulations may make different provision in relation to different authorities or categories of authority, and in particular may require the Authority to pay different sums to different billing authorities (s 31(6)). The power to make the regulations is exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament (s 31(7)). See the Major Precepting Authorities (Excessive Budget Requirements--Payments) (England) Regulations 1999, SI 1999/2842; the Major Precepting Authorities (Excessive Budget Requirements--Payments) (England) Regulations 2000, SI 2000/214; and the Major Precepting Authorities (Excessive Budget Requirements--Payments) (England) Regulations 2001, SI 2001/219.

29 *Ie* in accordance with the Greater London Authority Act 1999 ss 85-90 or, by way of substitute, ss 85, 86, 88-90 and Sch 7.

30 Local Government Finance Act 1992 s 49(1)(b), (c) (substituted by the Greater London Authority Act 1999 s 94(1), (2)). See further as to the making of substitute calculations the Local Government Finance Act 1992 s 49(1A)-(8) (as amended); and note 3 *supra*. See also the Greater London Authority Act 1999 s 98, Sch 7; and PARA 236 *post*.

## UPDATE

### 233 Calculation of component and consolidated budget requirements

TEXT AND NOTES--1999 Act s 85(3)(a) substituted; and s 85(3A) added: Greater London Authority Act 2007 s 12(2).

TEXT AND NOTES 1-25--Where an authority to which the Greater London Authority Act 1999 s 85 applies is making calculations in accordance with s 85, the chief finance officer of the authority must report to it on the following matters (1) the robustness of the estimates made for the purposes of the calculations, and (2) the adequacy of the proposed financial reserves: Local Government Act 2003 s 25(1). In s 25, 'chief finance officer', in relation to an authority, means the officer having responsibility for the administration of the authority's financial affairs for the purposes of (a) the Local Government Act 1972 s 151, (b) the Local Government Act 1985 s 73, (c) the Local Government Finance Act 1988 s 112, (d) the Local Government and Housing Act 1989 s 6, or (e) the Greater London Authority Act 1999 s 127(2): 2003 Act s 25(3). An authority to which a report under s 25 is made must have regard to the report when making decisions about the calculations in connection with which it is made: s 25(2).

The following provisions have effect in relation to the estimation of financial reserves for the purpose of calculations in accordance with the 1999 Act s 85: 2003 Act s 26(1). In the case of a controlled reserve, it will not be regarded as appropriate for the balance of the reserve at the end of the financial year under consideration to be less than the minimum amount determined in accordance with regulations made by the appropriate person: s 26(2). In s 26(2), 'controlled reserve' means a financial reserve of a description specified for the purposes of s 26 by regulations made by the appropriate person: s 26(3). Different provision may be made under s 26(2) for different descriptions of financial reserve: s 26(4).

The following provisions apply where an authority to which the 1999 Act s 85 applies is making calculations in accordance with s 85: 2003 Act s 27(1). If in relation to the previous financial year it appears to the chief finance officer that a controlled reserve is or is likely to be inadequate, he must report to the authority on (1) the reasons for that situation, and (2) the action, if any, which he considers it would be appropriate to take to prevent such a situation arising in relation to the corresponding reserve for the financial year under consideration: s 27(2). In s 27, 'chief finance officer' has the same meaning as in s 25: s 27(5). For the purposes of s 27(2) (a) a controlled reserve is a financial reserve of a description specified by regulations under s 26(3), and (b) such a reserve is inadequate if the balance of the reserve at the end of the financial year concerned is less than the minimum amount determined in accordance with regulations under s 26(2): s 27(3). An authority to which a report under s 27 is made must have regard to the report when making decisions about the calculations in connection with which it is made: s 27(4).

Sections 25-27 apply to the Isles of Scilly subject to such exceptions, adaptations and modifications as the Secretary of State may by order provide: s 125.

Where in relation to a financial year the Greater London Authority has made the calculations required by the 1999 Act s 85(3)-(7), each of the bodies in respect of which the calculations have been made must from time to time during the year review the calculations relating to it: 2003 Act s 29(1). In carrying out a review under s 29(1), a body must use the same figures for financial reserves as those used in the calculations under review, except in the case of financial reserves to meet a revenue account deficit from an earlier financial year: s 29(2). If as a result of carrying out a review under s 29(1) it appears to the body that carried out the review that there has been a deterioration in its financial position, it must (1) take such action, if any, as it considers necessary to deal with the situation, and (2) if it is a functional body, report

the deterioration to (a) the Mayor of London, and (b) the Chair of the London Assembly: s 29(3). For the purposes of s 29(3), there is a deterioration in a body's financial position if on the review an amount falls to be calculated under the 1999 Act s 85(6) and (i) none fell to be calculated under that provision at the time of the calculations under review, or (ii) an amount did then fall to be calculated under that provision and the amount then calculated is less than the amount calculated on the review: 2003 Act s 29(5). A report under head (2) must (A) include a statement of the reasons for the deterioration, and (B) set out what action, if any, the body making the report proposes to take to deal with the situation: s 29(4). In s 29, 'functional body' has the same meaning as in the 1999 Act: 2003 Act s 29(7). Where substitute calculations have effect, it is those calculations to which the duty under s 29(1) applies: s 29(6).

For transitional provisions and savings see SI 2003/2938, SI 2003/3034.

1999 Act ss 85, 99 modified in relation to the financial year beginning on 1 April 2008 by the Local Authorities (Alteration of Requisite Calculations) (England) Regulations 2008, SI 2008/227, and in relation to the financial year beginning on 1 April 2009 by the Local Authorities (Alteration of Requisite Calculations) (England) Regulations 2009, SI 2009/206.

NOTE 3--1999 Act s 108(2) repealed: Local Government Act 2003 Sch 8 Pt 1.

NOTE 7--1999 Act s 86(1) amended: Greater London Authority Act 2007 s 12(12).

NOTE 8--In the 1999 Act s 85, any reference to expenditure incurred by a body in any financial year includes the following (whether or not giving rise to actual payments) (1) any amount which does not form part of the body's capital receipts for the purposes of the 2003 Act Pt 1 Ch 1 (ss 1-20) (capital finance: see LOCAL GOVERNMENT vol 29(1) ((Reissue) PARA 618A) and which is set aside for the year by or in respect of the body as provision to meet credit liabilities; and (2) any other amount which is set aside for the year by or in respect of the body as reasonably necessary for the purpose of providing for any liability or loss which is likely or certain to be incurred but is uncertain as to the amount or the date on which it will arise (or both): s 85(9) (substituted by 2003 Act Sch 7 para 70; amended Greater London Authority Act 2007 s 12(9)).

NOTE 9--1999 Act s 85(4) amended: Greater London Authority Act 2007 s 12(4), (5). Now, any levy issued to the Authority will be treated as a levy issued by the Mayor: 1999 Act s 86(2A) (added by the Greater London Authority Act 2007 s 12(13)).

NOTE 10--1999 Act s 86(4) amended: Greater London Authority Act 2007 s 12(14).

TEXT AND NOTE 14--1999 Act s 85(5) amended: Greater London Authority Act 2007 s 12(7).

TEXT AND NOTE 20--1999 Act s 85(5) amended: Greater London Authority Act 2007 s 12(8).

TEXT AND NOTES 27, 28--1999 Act s 31 repealed: 2003 Act s 86, Sch 8 Pt 1.

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### **234. Procedure for determining the Greater London Authority's component and consolidated budget requirements.**

It is the duty<sup>1</sup> of the Mayor of London<sup>2</sup> and the London Assembly to prepare and approve for each financial year<sup>3</sup> a component budget (that is, a budget for each of the constituent bodies as such)<sup>4</sup>, and a consolidated budget for the Greater London Authority<sup>5</sup>. On or before 1 February<sup>6</sup> in the relevant financial year<sup>7</sup>, the Mayor must prepare each component budget in draft<sup>8</sup>, and must then prepare a draft of his proposed consolidated budget for the financial year<sup>9</sup>, which must be considered at a public meeting of the Assembly<sup>10</sup>. The Assembly must approve the draft consolidated budget, together with the draft component budgets comprised in it, with or without amendment<sup>11</sup>. If no amendments are made on consideration of the draft consolidated budget, whether to that budget or to any of the draft component budgets comprised in it, the draft consolidated budget is deemed to be approved without amendment<sup>12</sup>. After the draft consolidated budget has been approved (with or without amendment)<sup>13</sup>, or such period as the Mayor considers reasonable has elapsed without the draft consolidated budget having been so approved<sup>14</sup>, the Mayor must prepare a final draft of his proposed consolidated budget for the financial year<sup>15</sup> and, before the last day of February in the relevant financial year<sup>16</sup>, present it to the Assembly<sup>17</sup> and publish it in such manner as he may determine<sup>18</sup>. Where the Mayor presents a final draft budget to the Assembly<sup>19</sup>, the final draft budget must be considered at a public meeting of the Assembly<sup>20</sup> and, after considering the final draft budget, the Assembly must, before the last day of February in the relevant financial year<sup>21</sup>, approve it with or without amendment<sup>22</sup>. If no amendments are made on consideration of the final draft budget, it is deemed to be approved without amendment<sup>23</sup>. The final draft budget as approved by the Assembly with or without amendment is the Authority's consolidated budget for the financial year<sup>24</sup>.

1    In accordance with the Greater London Authority Act 1999 s 87, Sch 6 paras 2-11 (see the text and notes *infra*).

2    As to the Mayor of London see PARA 81 *ante*. If, at any time when proceedings under *ibid* Sch 6 are taking place in respect of any year, there is a vacancy in the office of Mayor of London or the Mayor is temporarily unable to act, those and any subsequent proceedings under Sch 6 in respect of that year must proceed as if the Mayor had failed to fulfil his duties under Sch 6: see s 37, Sch 4 paras 11, 16. While a person is the acting Mayor, he may not act as an Assembly member except in relation to functions of the London Assembly under Sch 6: see Sch 4 para 7(1). As to the circumstances in which a vacancy in the office of Mayor may arise see PARAS 117-122 *ante*. As to the exercise of the functions of the Mayor during periods of temporary inability to act see PARAS 128-130 *ante*. As to the office of acting Mayor of London see PARAS 123-126 *ante*. For the meaning of 'Assembly member' see PARA 82 note 3 *ante*. As to the London Assembly see PARA 82 *ante*. As to the functions of the Greater London Authority see PARA 164 *et seq* *ante*.

3    For the meaning of 'financial year' see PARA 131 note 21 *ante*.

4    Greater London Authority Act 1999 Sch 6 para 1(1)(a). The constituent bodies are the Greater London Authority and each of the functional bodies: ss 85(3)(a), (b), 99; and see PARA 233 *ante*. As to the establishment of the Greater London Authority see PARA 79 *ante*. As to the functional bodies see PARAS 213-218 *ante*. A component budget must consist of statements of the amount of the component budget requirement for the constituent body concerned (Sch 6 para 1(2)(a)) and the calculations under s 85(4)-(7) (see PARA 233 notes 8-24 *ante*) which give rise to that amount (Sch 6 para 1(2)(b)). For the meaning of 'component budget requirement' see ss 85(6), 99; and PARA 233 *ante*.

5 Ibid Sch 6 para 1(1)(b). Such a budget is referred to as a 'consolidated budget', and consists of statements of the amount of the Authority's consolidated budget requirement (Sch 6 para 1(3)(a)), the amount of the component budget requirement for each constituent body (Sch 6 para 1(3)(b)), and the calculations under s 85(4)-(8) (see PARA 233 notes 8-25 ante) which give rise to each of those amounts (Sch 6 para 1(3)(c)). For the meaning of 'consolidated budget requirement' see ss 85(8), 99; and PARA 233 ante. For general provisions as to local government finance see LOCAL GOVERNMENT vol 29(1) (Reissue) PARAS 514-618, 624-634.

6 The Secretary of State may by regulations modify ibid Sch 6 in its application in relation to any particular financial year, by substituting for any reference to 1 February in the preceding financial year a reference to such other day as may be specified in the regulations: Sch 6 para 10. As to the Secretary of State see PARA 12 note 2 ante. At the date at which this volume states the law no such regulations had been made. As to the making of regulations generally see PARA 13 ante.

7 It is the duty of the Mayor to comply with ibid Sch 6 paras 2, 3(1)-(3) (see the text and notes 8-9 infra) on or before 1 February in the financial year preceding that to which the draft consolidated budget relates: Sch 6 para 3(4). If the Mayor fails to comply with Sch 6 para 3(4), the Assembly must: prepare a draft component budget for each functional body, after consultation with that body (Sch 6 para 4(1)(a)); prepare a draft component budget for the Authority (Sch 6 para 4(1)(b)); and prepare a draft consolidated budget (Sch 6 para 4(1)(c)). If, at a public meeting of the Assembly, the draft consolidated budget prepared under Sch 6 para 4(1)(c) is approved by the Assembly, that draft, as so approved, must be the Authority's consolidated budget for the financial year to which it relates (Sch 6 para 4(2)(a)), and Sch 6 paras 5-11 (see the text and notes 10-24 infra) do not apply in relation to the consolidated budget or the component budgets for that financial year (Sch 6 para 4(2)(b)). For these purposes 'public meeting', in relation to the Assembly, means a meeting of the Assembly throughout which members of the public are entitled to be present: Sch 6 para 1(4).

8 For each financial year, the Mayor must prepare a draft of his proposed component budget for each of the constituent bodies: ibid Sch 6 para 2(1). Before preparing the draft component budget for the Authority, the Mayor must consult the Assembly (Sch 6 para 2(2)), and before preparing the draft component budget for a functional body, the Mayor must consult the body (Sch 6 para 2(3)).

9 Ibid Sch 6 para 3(1). Before finally determining the contents of the draft consolidated budget, the Mayor must consult either the Assembly or, if the Assembly has so resolved, such committee or other representatives of the Assembly as may be specified in, or determined in accordance with, the resolution, and (in either case) such other bodies or persons as appear appropriate to the Mayor: Sch 6 para 3(2). The Mayor must present the draft consolidated budget to the Assembly at a public meeting of the Assembly (Sch 6 para 3(3)(a)) and publish it in such manner as he may determine (Sch 6 para 3(3)(b)).

10 Ibid Sch 6 para 5(1), (2).

11 Ibid Sch 6 para 5(1), (3). For the purposes of Sch 6 para 5(1), (3), the only amendments which are to be made are those agreed to by the Assembly: Sch 6 para 5(1), (4).

12 Ibid Sch 6 para 5(1), (5).

13 Ibid Sch 6 para 6(1)(a). The reference in the text to approval is to approval under Sch 6 para 5 (see the text and notes 10-12 supra).

14 Ibid Sch 6 para 6(1)(b). In a case falling within Sch 6 para 6(1)(b) the Mayor must lay before the Assembly, in accordance with the standing orders of the Authority, a statement that he is proceeding by virtue thereof (Sch 6 para 6(2)(a)) and on the laying of the statement, the Assembly is deemed to have approved the draft consolidated budget without amendment (Sch 6 para 6(2)(b)). As to the standing orders of the Greater London Authority see PARA 140 ante.

15 Ibid Sch 6 para 6(1). Whether the Assembly has approved the draft consolidated budget with or without amendment, the final draft budget may be either the draft consolidated budget, as approved by the Assembly, with the amendments (if any) so made (Sch 6 para 6(3)(a)), the draft consolidated budget amended by the Mayor as he considers appropriate (Sch 6 para 6(3)(b)), or the same as the draft consolidated budget (Sch 6 para 6(3)(c)).

16 It is the duty of the Mayor (having regard to Sch 6 para 8(7) (see the text and note 21 infra) to comply with Sch 6 para 6(4) (see the text and notes 17-18 infra) before the last day of February in the financial year preceding that to which the final draft budget relates: Sch 6 para 6(6).

17 Ibid Sch 6 para 6(4)(a). If the Mayor has complied with Sch 6 para 3(4) (see the text and note 7 supra) but has failed to comply with Sch 6 para 6(6) (ie has failed to present a final draft budget in time) (see note 16 supra), a public meeting of the Assembly must be held to determine the Authority's consolidated budget requirement (Sch 6 para 7(1), (2)), the component budget requirement of each of the constituent bodies must be agreed by the Assembly (Sch 6 para 7(1), (3)), and the Authority's consolidated budget requirement is

deemed to be agreed by the Assembly accordingly (Sch 6 para 7(1), (4)). Where Sch 6 para 7 applies, Sch 6 paras 8-11 (see the text and notes 19-24 *infra*) do not apply in relation to the consolidated budget or the component budgets for the financial year in question: Sch 6 para 7(5).

If the Assembly approved the draft consolidated budget with amendments under Sch 6 para 5 (see the text and notes 10-12 *supra*), but the final draft budget is anything other than the draft consolidated budget with those amendments, the Mayor, at the time when he presents the final draft budget to the Assembly, must lay before the Assembly in accordance with standing orders of the Authority a written statement of his reasons for preparing a final draft budget which is not the draft consolidated budget with those amendments: Sch 6 para 6(5).

18 Ibid Sch 6 para 6(4)(b).

19 Ie in accordance with *ibid* Sch 6 para 6 (see the text and notes 13-18 *supra*).

20 Ibid Sch 6 para 8(1), (2).

21 It is the duty of the Assembly to approve the final draft budget before the last day of February in the financial year preceding that to which the final draft budget relates: *ibid* Sch 6 para 8(1), (7). If the Assembly fails to comply with Sch 6 para 8(1), (7), the final draft budget presented to the Assembly in accordance with Sch 6 para 6 (see the text and notes 13-18 *supra*) will be the Authority's consolidated budget for the financial year: Sch 6 para 9.

22 Ibid Sch 6 para 8(1), (3). For the purposes of Sch 6 para 8(1), (3), the only amendments which may be made are those agreed to by at least two-thirds of the Assembly members voting: Sch 6 para 8(1), (4).

23 Ibid Sch 6 para 8(1), (5).

24 Ibid Sch 6 para 8(1), (6). The Mayor must as soon as practicable publish the Authority's consolidated budget for the year (Sch 6 para 11(1)(a)) and the component budget of each constituent body for the year (Sch 6 para 11(1)(b)). A copy of each document required to be published under Sch 6 para 11(1) must be kept available for the period of six years beginning with the date of publication of the document pursuant to Sch 6 para 11 by the Mayor for inspection by any person on request free of charge at the principal offices of the Authority at reasonable hours (Sch 6 para 11(2), (3), (5)), and a copy of any such document, or any part of any such document, must be supplied to any person on request during that period for such reasonable fee as the Mayor may determine (Sch 6 para 11(4)).

## UPDATE

### **234 Procedure for determining the Greater London Authority's component and consolidated budget requirements**

NOTE 7--1999 Act Sch 6 para 4 amended: Greater London Authority Act 2007 s 13(3).

NOTE 8--1999 Act Sch 6 para 2(2) substituted: Greater London Authority Act 2007 s 13(2).

TEXT AND NOTE 11--1999 Act Sch 6 para 5 amended: Greater London Authority Act 2007 s 13(4). See also the 1999 Act Sch 6 para 5A (added by the Greater London Authority Act 2007 s 13(5)).

TEXT AND NOTE 22--1999 Act Sch 6 para 8 amended: Greater London Authority Act 2007 s 13(6). See also the 1999 Act Sch 6 para 8A (added by the Greater London Authority Act 2007 s 13(7)).



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## (B) CALCULATION OF COUNCIL TAX

### 235. Calculation of basic amount of council tax.

The Greater London Authority<sup>1</sup> is required to calculate the basic amount of its council tax<sup>2</sup> in relation to each financial year<sup>3</sup>, taking into account its consolidated budget requirement for the year<sup>4</sup>, amounts estimated to be payable to the Authority for the year, the special expense of the Metropolitan Police Authority<sup>5</sup> and the amounts which are calculated by the billing authorities to which the Authority issues precepts as their council tax bases for the year<sup>6</sup>.

Where the Authority has made calculations in relation to a financial year in accordance with these provisions<sup>7</sup>, it may make calculations in substitution in relation to the year<sup>8</sup>.

1 As to the establishment of the Greater London Authority see PARA 79 ante. The functions conferred or imposed on the Authority under or by virtue of the Greater London Authority Act 1999 Pt III (ss 81-140) are functions of the Authority which are exercisable by the Mayor of London acting on behalf of the Authority: s 140(1). As to the Mayor of London see PARA 81 ante. As to the functions of the Greater London Authority see PARA 164 et seq ante. For general provisions as to local government finance see LOCAL GOVERNMENT vol 29(1) (Reissue) PARAS 514-618, 624-634.

2 As to council tax see RATING AND COUNCIL TAX vol 39(1B) (Reissue) PARA 227 et seq.

3 For the meaning of 'financial year' see PARA 131 note 21 ante.

4 As to the calculation of the consolidated budget requirement see PARA 233 ante.

5 As to the Metropolitan Police Authority see PARA 216 ante; and POLICE vol 36(1) (2007 Reissue) PARAS 147-155.

6 See the Greater London Authority Act 1999 ss 88(2)-(10), 89(2)-(6), (7)-(9), 90 (s 89(2) amended by the Greater London Authority (Miscellaneous Amendments) Order 2000, SI 2000/1435, art 2, Schedule paras 1, 6; the Greater London Authority Act 1999 ss 88(2), (4), 89(4), (6) modified, in relation to the financial year beginning on 1 April 2002, by the Local Authorities (Alteration of Requisite Calculations) (England) Regulations 2002, SI 2002/155, regs 7, 8; and the Greater London Authority Act 1999 ss 88(2), 89(4) modified, in relation to the financial year beginning on 1 April 2002, by the Greater London Authority (Allocation of Grants for Precept Calculations) Regulations 2002, SI 2002/267). The Local Government Finance Act 1992 s 44 (as amended) and s 45, which make provision for the calculation of the basic amount of council tax by major precepting authorities, do not apply in relation to the Greater London Authority and the Greater London Authority Act 1999 ss 88, 89 (as amended) have effect in relation to the Authority instead (ss 88(1), 89(1)). See also, as to the calculation of tax for different valuation bands, the Local Government Finance Act 1992 ss 47, 48 (both as amended); and LOCAL GOVERNMENT vol 29(1) (Reissue) PARA 524. As to the making of substitute calculations see s 49 (as amended); and LOCAL GOVERNMENT vol 29(1) (Reissue) PARA 525.

For general provision as to the making of calculations and substitute calculations by the Greater London Authority, and for provision as to the judicial review thereof, see PARA 233 note 3 ante.

7 In accordance with *ibid* ss 85-90 (see the text and notes 1-6 *supra* and PARA 233 ante), or, by way of substitute, ss 85, 86, 88-90 and Sch 7. As to the procedure for the making of substitute calculations see PARA 236 post.

8 Local Government Finance Act 1992 s 49(1)(b), (c) (substituted by the Greater London Authority Act 1999 s 94(1), (2)). See further, as to the making of substitute calculations, the Local Government Finance Act 1992 s 49(1A)-(8) (as amended); and the Greater London Authority Act 1999 s 98, Sch 7 (see PARA 236 post).

## UPDATE

### **235 Calculation of basic amount of council tax**

NOTE 6--Greater London Authority Act 1999 ss 88, 89 modified in relation to the financial year beginning on 1 April 2008 by the Local Authorities (Alteration of Requisite Calculations) (England) Regulations 2008, SI 2008/227, and in relation to the financial year beginning on 1 April 2009 by the Local Authorities (Alteration of Requisite Calculations) (England) Regulations 2009, SI 2009/206.

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## (C) SUBSTITUTE CALCULATIONS

### **236. Procedure for making substitute calculations of budget requirements and basic amounts of council tax.**

The Mayor of London<sup>1</sup> must prepare a first draft<sup>2</sup> of his proposals for any substitute calculations which are required to be made<sup>3</sup>, lay it before the Assembly in accordance with standing orders of the Greater London Authority<sup>4</sup>, and publish it in such manner as he may determine<sup>5</sup>. Where the Mayor has laid the first draft before the London Assembly<sup>6</sup>, it must be considered at a public meeting of the Assembly<sup>7</sup> and the Assembly must approve the first draft with or without amendment<sup>8</sup>. If no amendments are made on consideration of the first draft, it is deemed to be approved without amendment<sup>9</sup>. After either the first draft has been approved (with or without amendment)<sup>10</sup>, or such period as the Mayor considers reasonable has elapsed without the first draft having been so approved<sup>11</sup>, the Mayor must prepare a final draft of his proposals for the substitute calculations<sup>12</sup>, present it to the Assembly<sup>13</sup>, and publish it in such manner as he may determine<sup>14</sup>. Where the Mayor presents a final draft to the Assembly<sup>15</sup>, it must be considered at a public meeting of the Assembly<sup>16</sup> and, after considering the final draft, the Assembly must approve it with or without amendment<sup>17</sup>. If no amendments are made on consideration of the final draft, it is deemed to be approved without amendment<sup>18</sup>. The Authority's substitute calculations are those in the final draft as approved by the Assembly with the amendments (if any) accordingly made<sup>19</sup>.

1 As to the Mayor of London see PARA 81 ante. If, at any time when proceedings under the Greater London Authority Act 1999 s 98, Sch 7 (see the text and notes 2-19 infra) are taking place in respect of any year, there is a vacancy in the office of Mayor or the Mayor is temporarily unable to act, those and any subsequent proceedings under Sch 7 in respect of that year must proceed as if the Mayor had failed to fulfil his duties under Sch 7: see s 37, Sch 4 paras 11, 16. While a person is the acting Mayor, he may not act as an Assembly member except in relation to functions of the London Assembly under Sch 7: see Sch 4 para 7(1). As to the circumstances in which a vacancy in the office of Mayor may arise see PARAS 117-122 ante. As to the exercise of the functions of the Mayor during periods of temporary inability to act see PARAS 128-130 post. As to the office of acting Mayor of London see PARAS 123-126 post. For the meaning of 'Assembly member' see PARA 82 note 3 ante. As to the London Assembly see PARA 82 ante.

2 Before finally determining the contents of the first draft, the Mayor must consult the London Assembly and each of the functional bodies affected by the proposals: *ibid* Sch 7 para 2(2). As to the functional bodies see PARAS 213-218 ante.

3 *Ibid* Sch 7 paras 1(1), 2(1). As to the substitute calculations required to be made in accordance with Sch 7 see PARA 233 notes 3, 9, 29-30 ante (substitute calculations of component and consolidated budget requirements, including substitute calculations occasioned by requirements of Metropolitan Police Authority or by emergencies and disasters), and PARA 234 notes 7-8 ante (substitute calculations of basic amount of council tax). As to the judicial review of calculations or substitute calculations made under Sch 7 see PARA 233 note 3 ante.

4 *Ibid* Sch 7 para 2(3)(a). As to the establishment of the Greater London Authority see PARA 79 ante. As to the standing orders of the Authority see PARA 140 ante. If the Mayor has not complied with Sch 7 para 2(3) before the beginning of the period of restriction for the purposes of s 96 or the Local Government Finance Act 1992 s 52K (as added) or s 52V (as added), the Assembly must prepare a draft of its proposals for the substitute calculations, after consulting each of the functional bodies affected by the proposals: Greater London Authority Act 1999 Sch 7 para 3(1), (2). If, at a public meeting of the Assembly, the draft proposals prepared under Sch 7 para 3(2) are approved by the Assembly the Authority's substitute calculations must be the substitute

calculations in that draft as so approved (Sch 7 para 3(3)(a)) and Sch 7 paras 4-9 (see the text and notes 6-19 *infra*) do not apply in relation to the substitute calculations (Sch 7 para 3(3)(b)). As to the period of restriction for the purposes of s 96 (which is concerned with the making of substitute calculations owing to the budgetary requirements of the Metropolitan Police Authority) see s 96(3); and PARA 233 note 3 *ante*. As to the period of restriction for the purposes of the Local Government Finance Act 1992 s 52K (as added) or s 52V (as added) (which are concerned with the making of substitute calculations of a local authority's budget requirements) see s 52K(4) (as added), s 52V(5) (as added); and LOCAL GOVERNMENT vol 29(1) (Reissue) PARA 529. In the Greater London Authority Act 1999 Sch 7 'public meeting', in relation to the Assembly, means a meeting of the Assembly throughout which members of the public are entitled to be present: Sch 7 para 1(2).

5 Ibid Sch 7 para 2(3)(b). See note 4 *supra*. For general provisions as to local government finance see LOCAL GOVERNMENT vol 29(1) (Reissue) PARAS 514-618, 624-634.

6 Ibid Sch 7 para 4(1).

7 Ibid Sch 7 para 4(2).

8 Ibid Sch 7 para 4(3). For the purposes of Sch 7 para 4(3), the only amendments which may be made are those agreed to by the Assembly: Sch 7 para 4(4).

9 Ibid Sch 7 para 4(5).

10 Ibid Sch 7 para 5(1)(a). The reference in the text to the first draft having been approved is a reference to the first draft having been approved under Sch 7 para 4 (see the text and notes 6-9 *supra*).

11 Ibid Sch 7 para 5(1)(b). In a case falling within Sch 7 para 5(1)(b) the Mayor must lay before the Assembly in accordance with standing orders of the Authority a statement that he is proceeding by virtue of Sch 7 para 5(1)(b) (Sch 7 para 5(2)(a)) and on the laying of the statement, the Assembly is deemed to have approved the first draft without amendment (Sch 7 para 5(2)(b)).

12 Ibid Sch 7 para 5(1). Whether the Assembly has approved the first draft with or without amendment, the final draft may be the first draft, as approved by the Assembly, with the amendments (if any) made under Sch 7 para 4 (see the text and notes 6-9 *supra*) (Sch 7 para 5(3)(a)), the first draft amended by the Mayor as he considers appropriate (Sch 7 para 5(3)(b)), or the same as the first draft (Sch 7 para 5(3)(c)).

13 Ibid Sch 7 para 5(4)(a). If the Mayor has complied with Sch 7 para 2(3) (see the text and notes 4-5 *supra*) but has failed to comply with Sch 7 para 5(4) before the beginning of the period of restriction for the purposes of s 96 or the Local Government Finance Act 1992 s 52K (as added) or s 52V (as added) (Greater London Authority Act 1999 Sch 7 para 6(1)), a public meeting of the Assembly must be held to determine the Authority's substitute calculations (Sch 7 para 6(2)) and the substitute calculations must be agreed by the Assembly (Sch 7 para 6(3)). Where Sch 7 para 6 applies, Sch 7 paras 7-9 (see the text and notes 15-19 *infra*) do not apply in relation to the substitute calculations: Sch 7 para 6(4).

If the Assembly approved the first draft with amendments under Sch 7 para 4 (see the text and notes 6-9 *supra*), but the final draft is anything other than the first draft with those amendments, the Mayor, at the time when he presents the final draft to the Assembly, must lay before the Assembly in accordance with standing orders of the Authority a written statement of his reasons for preparing a final draft which is not the first draft with those amendments (Sch 7 para 5(5)).

14 Ibid Sch 7 para 5(4)(b). See note 13 *supra*.

15 Ibid Sch 7 para 7(1). The reference in the text to the presentation of the final draft to the Assembly is a reference to the presentation of the final draft in accordance with Sch 7 para 5 (see the text and notes 10-14 *supra*).

16 Ibid Sch 7 para 7(2).

17 Ibid Sch 7 para 7(3). For the purposes of Sch 7 para 7(3), the only amendments which are to be made are those agreed to by at least two-thirds of the Assembly members voting: Sch 7 para 7(4). For the meaning of 'Assembly members' see PARA 82 note 3 *ante*. If the Assembly fails to approve the final draft, with or without amendment, before the end of the period of 21 days beginning with the day on which the Mayor presented the final draft, the Authority's substitute calculations are those in the final draft presented to the Assembly in accordance with Sch 7 para 5 (see the text and notes 10-14 *supra*): Sch 7 para 8.

18 Ibid Sch 7 para 7(5).

19 Ibid Sch 7 para 7(6). The reference in the text to the amendments accordingly made is a reference to the amendments (if any) made in accordance with Sch 7 para 7(3), (4) (see the text and note 17 *supra*). The Mayor must as soon as practicable publish a document containing the substitute calculations: Sch 7 para 9(1), (2). A

copy of each such document must be kept available for the appropriate period (ie the period of six years beginning with the date of publication of the document pursuant to Sch 7 para 9 (Sch 7 para 9(1), (6))) by the Mayor for inspection by any person on request free of charge at the principal offices of the Authority at reasonable hours (Sch 7 para 9(1), (3), (4)), and a copy of any such document, or any part thereof, must be supplied to any person on request during the appropriate period for such reasonable fee as the Mayor may determine (Sch 7 para 9(1), (5)).

## **UPDATE**

### **236 Procedure for making substitute calculations of budget requirements and basic amounts of council tax**

TEXT AND NOTES--Now, as to the limit on the Assembly's powers to amend the Mayor's first draft budget for the Assembly, see the 1999 Act Sch 7 para 4A (added by the Greater London Authority Act 2007 s 14(2)). As to the limit on the Assembly's powers to amend the Mayor's final draft budget for the Assembly, see the 1999 Act Sch 7 para 7A (added by the Greater London Authority Act 2007 s 14(3)).

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/3. THE GREATER LONDON AUTHORITY/(7) FINANCE/(i) Income of the Greater London Authority and the Functional Bodies/C. GRANTS/237. In general.

## **C. GRANTS**

### **237. In general.**

The Greater London Authority<sup>1</sup>, like local authorities generally, receives various grants from central government, including: revenue support grant<sup>2</sup>, additional grant<sup>3</sup>, and relevant special grant<sup>4</sup>. These grants are dealt with elsewhere in this work<sup>5</sup>.

In addition to these grants, however, the Authority receives a new form of grant, known as general GLA grant<sup>6</sup>. There is also a GLA transport grant, which is paid to the Authority for the purposes of Transport for London only<sup>7</sup>.

1 As to the establishment of the Greater London Authority see PARA 79 ante.

2 See the Greater London Authority Act 1999 s 102(2)(a); and PARA 232 ante. As to revenue support grant see LOCAL GOVERNMENT vol 29(1) (Reissue) PARA 532 et seq.

3 See ibid s 102(2)(b); and PARA 232 ante. As to additional grant see LOCAL GOVERNMENT vol 29(1) (Reissue) PARA 535.

4 See ibid s 102(2)(c); and PARA 232 ante. For the purposes of s 102, 'relevant special grant' is to be construed in accordance with the Local Government Finance Act 1992 s 32(12) (as amended): Greater London Authority Act 1999 s 102(8).

5 As to local government finance generally see LOCAL GOVERNMENT vol 29(1) (Reissue) PARA 514 et seq. See also RATING AND COUNCIL TAX.

6 See the Greater London Authority Act 1999 s 102(2)(d); and PARA 232 ante. As to general GLA grant see PARA 238 post.

7 As to the GLA transport grant see ibid s 101; and PARA 238 post. As to Transport for London see PARAS 218 ante, 269 et seq post.

## **UPDATE**

### **237 In general**

TEXT AND NOTES--As to expenditure grant and its application to the Greater London Authority see LOCAL GOVERNMENT vol 29(1) (Reissue) PARA 544A.

NOTE 4--Greater London Authority Act 1999 s 102(2)(c), (8) omitted in relation to England for the financial year beginning on 1 April 2005 by the Local Authorities (Alteration of Requisite Calculations) (England) Regulations 2005, SI 2005/190. Greater London Authority Act 1999 s 102(2)(c) omitted, s 102(8) substituted in relation to England for the financial year beginning on 1 April 2009 by the Local Authorities (Alteration of Requisite Calculations) (England) Regulations 2009, SI 2009/206.

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/3. THE GREATER LONDON AUTHORITY/(7) FINANCE/(i) Income of the Greater London Authority and the Functional Bodies/C. GRANTS/238. General GLA grant and GLA transport grant.

### **238. General GLA grant and GLA transport grant.**

For each financial year<sup>1</sup>, the Secretary of State<sup>2</sup> must pay to the Greater London Authority<sup>3</sup>, for the purposes of the Authority and the functional bodies<sup>4</sup>, a grant called 'general GLA grant'<sup>5</sup>. For each financial year the Secretary of State must make a determination<sup>6</sup> stating the amount of the grant for the year<sup>7</sup>. The grant must be paid in such instalments or such amounts and at such times as the Secretary of State may, with the Treasury's consent, determine<sup>8</sup>.

For each financial year the Secretary of State must pay to the Greater London Authority, for the purposes of Transport for London<sup>9</sup>, a grant called 'GLA transport grant'<sup>10</sup>. For each financial year the Secretary of State, after consultation with the Mayor of London, must make a determination stating the amount of grant for the year<sup>11</sup>. The grant must be paid in such instalments or such amounts and at such times as the Secretary of State may, with the Treasury's consent, determine<sup>12</sup>. The amount of the grant, or any terms relating to payment of the grant, may be varied from time to time by the Secretary of State after consultation with the Mayor<sup>13</sup>.

1 For the meaning of 'financial year' see PARA 131 note 21 ante.

2 As to the Secretary of State see PARA 12 note 2 ante.

3 As to the establishment of the Greater London Authority see PARA 79 ante.

4 Greater London Authority Act 1999 s 100(2). As to the functional bodies see PARAS 213-218 ante. As to the payment of capital and revenue grants by the Authority to functional bodies see ss 120, 121; and PARA 245 post. Where the Authority receives any grant or other payment made only for the purposes, or particular purposes, of a functional body, the Authority must forthwith account for the grant or other payment to the functional body concerned and pay it over to that body (s 103(1)), although this does not apply in relation to any sum received in respect of an item which falls within any of s 102(2)(a)-(g) (see PARA 239 post) (s 103(2)). As to the duty of the Authority to account to functional bodies for grants received by way of emergency assistance see PARA 232 text and note 15 ante. For general provisions as to local government finance see LOCAL GOVERNMENT vol 29(1) (Reissue) PARAS 514-618, 624-634.

The functions conferred or imposed on the Authority under or by virtue of Pt III (ss 81-140) are functions of the Authority which are exercisable by the Mayor of London acting on behalf of the Authority: s 140(1). As to the Mayor of London see PARA 81 ante. As to the functions of the Greater London Authority see PARA 164 et seq ante.

5 Ibid s 100(1).

6 Ibid s 100(3). The reference in the text to a determination is a reference to a determination under s 100. Before making a determination the Secretary of State must consult the Mayor: s 100(5).

7 Ibid s 100(4).

8 Ibid s 100(6). As to the Treasury see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 512 et seq.

9 Ibid s 101(2). As to the general transport duty of the Authority see PARA 262 post. As to Transport for London see PARAS 218 ante, 269 et seq post. As to the payment of capital and revenue grants by the Authority to Transport for London as a functional body see ss 120, 121; and PARA 245 post.

Where the Authority receives any grant or other payment made only for the purposes, or particular purposes, of a functional body, the Authority must forthwith account for the grant or other payment to the functional body concerned and pay it over to that body (s 103(1)), although this does not apply in relation to any sum received in respect of an item which falls within any of s 102(2)(a)-(g) (see PARA 239 post) (s 103(2)). As to the duty of the Authority to account to functional bodies for grants received by way of emergency assistance see PARA 232 text and note 15 ante.

The functions conferred or imposed on the Authority under or by virtue of Pt III (ss 81-140) are functions of the Authority which are exercisable by the Mayor of London acting on behalf of the Authority: s 140(1).

10 Ibid s 101(1).

11 Ibid s 101(3).

12 Ibid s 101(4).

13 Ibid s 101(5).



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## ***D. DISTRIBUTION TO FUNCTIONAL BODIES***

### **239. Distribution of grants etc to functional bodies.**

For each financial year<sup>1</sup>, it is the duty of the Greater London Authority<sup>2</sup> to pay to each functional body<sup>3</sup>, out of the aggregate of:

- 371 (1) revenue support grant<sup>4</sup>;
- 372 (2) additional grant<sup>5</sup>;
- 373 (3) relevant special grant<sup>6</sup>;
- 374 (4) general GLA grant<sup>7</sup>;
- 375 (5) redistributed non-domestic rates<sup>8</sup>;
- 376 (6) any precept issued by the Authority<sup>9</sup>; and
- 377 (7) payments to the Authority by billing authorities<sup>10</sup>,

the amount required by the body<sup>11</sup> out of that aggregate<sup>12</sup>. The payments so required<sup>13</sup> must be made by instalments during the financial year in question<sup>14</sup>, and it is the duty of the Authority to pay such instalments punctually<sup>15</sup>.

If an overpayment is made to a functional body in respect of the sums payable to it<sup>16</sup>, the functional body must, in accordance with any directions given to it for the purpose by the Mayor of London, make at such times and in such manner as may be specified in the directions such payments to the Authority by way of repayment as may be so specified<sup>17</sup>.

1 For the meaning of 'financial year' see PARA 131 note 21 ante.

2 As to the establishment of the Greater London Authority see PARA 79 ante. The functions conferred or imposed on the Authority under or by virtue of the Greater London Authority Act 1999 Pt III (ss 81-140) are functions of the Authority which are exercisable by the Mayor of London acting on behalf of the Authority: s 140(1). As to the Mayor of London see PARA 81 ante. As to the functions of the Greater London Authority see PARA 164 et seq ante. For general provisions as to local government finance see LOCAL GOVERNMENT vol 29(1) (Reissue) PARAS 514-618, 624-634.

3 As to the functional bodies see PARAS 213-218 ante. As to the payment of capital and revenue grants by the Authority to functional bodies see ibid ss 120, 121; and PARA 245 post.

4 Ibid s 102(2)(a). As to revenue support grant see LOCAL GOVERNMENT vol 29(1) (Reissue) PARA 532.

5 Ibid s 102(2)(b). As to additional grant see LOCAL GOVERNMENT vol 29(1) (Reissue) PARA 535.

6 Ibid s 102(2)(c). In s 102 'relevant special grant' is construed in accordance with the Local Government Finance Act 1992 s 32(12) (as amended): Greater London Authority Act 1999 s 102(8).

7 Ibid s 102(2)(d). As to general GLA grant see PARA 238 ante.

8 Ibid s 102(2)(e). As to the collection and distribution of non-domestic rates see RATING AND COUNCIL TAX vol 39(1B) (Reissue) PARA 3 et seq.

9 Ibid s 102(2)(f). As to the issuing of precepts by the Authority see PARA 232 ante; and LOCAL GOVERNMENT vol 29(1) (Reissue) PARAS 524-529.

10 Ibid s 102(2)(g). The reference in the text to the making of payments to the Authority by billing authorities is a reference to the making of such payments to the Authority in accordance with regulations made by the Secretary of State under the Local Government Finance Act 1988 s 99(3) (as substituted); see the Local Authorities (Funds) (England) Regulations 1992, SI 1992/2428 (amended by SI 1994/246; SI 1995/2910; SI 1998/1129; SI 1999/3459) and the Local Authorities (Alteration of Requisite Calculations and Funds) Regulations 1994, SI 1994/246. As to the making of payments to the Authority by billing authorities see PARA 232 ante.

11 Ie in accordance with the calculations (or last calculations) under the Greater London Authority Act 1999 s 85(4)-(7) (see PARA 233 ante).

12 Ibid s 102(1).

13 Ie required by ibid s 102(1) (see the text and notes 1-12 supra).

14 Ibid s 102(3). The instalments to be paid under s 102(3) to a functional body must be payments of such amounts, and must be payable at such times, as will enable the body to meet its budgeted expenditure for the year as it falls due: s 102(4). In the application of s 102(4) in relation to a functional body, 'budgeted expenditure' means expenditure which, in accordance with the calculations (or last calculations) made under s 85(4)-(7) (see PARA 233 ante), the body is to meet out of payments by way of instalments under s 102: s 102(6).

15 Ibid s 102(5).

16 Ie the sums payable to the functional body by virtue of ibid s 102.

17 Ibid s 102(7).

## **UPDATE**

### **239 Distribution of grants etc to functional bodies**

TEXT AND NOTES--Greater London Authority Act 1999 s 102 modified in relation to the financial year beginning on 1 April 2008 by the Local Authorities (Alteration of Requisite Calculations) (England) Regulations 2008, SI 2008/227, and in relation to the financial year beginning on 1 April 2009 by the Local Authorities (Alteration of Requisite Calculations) (England) Regulations 2009, SI 2009/206.

NOTE 10--SI 1992/2428 further amended by SI 2001/3649, and modified by SI 2009/5.

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## **(ii) Capital Finance**

### **A. REGULATION OF CAPITAL EXPENDITURE AND BORROWING**

#### **240. Regulation of capital expenditure and borrowing of the Greater London Authority and the functional bodies.**

The capital expenditure and borrowing of the Greater London Authority<sup>1</sup> and its functional bodies<sup>2</sup> is in general regulated by the provisions of Part IV of the Local Government and Housing Act 1989<sup>3</sup>, although special provision is made in connection with the issue of credit approvals for the Authority and the functional bodies<sup>4</sup>. Provision is also made for the redistribution of the capital receipts of the functional bodies<sup>5</sup>, the payment of capital and revenue grants to or in connection with those bodies<sup>6</sup>, the preparation by the Mayor of London<sup>7</sup> of an annual capital spending plan<sup>8</sup>, and for the provision of information required for the purposes of the Mayor's powers and functions relating to the revenue accounts and capital finances of the Authority<sup>9</sup>.

1 As to the establishment of the Greater London Authority see PARA 79 ante.

2 As to the functional bodies see PARAS 213-218 ante.

3 I.e. the Local Government and Housing Act 1989 Pt IV (ss 39-66) (as amended) (see LOCAL GOVERNMENT vol 29(1) (Reissue) PARA 558 et seq). The Authority and the functional bodies are amongst the bodies with respect to which the Local Government and Housing Act 1989 Pt IV has effect: s 39(1)(bb), (bc) (added by the Greater London Authority Act 1999 s 111(1), (2)).

4 The Greater London Authority Act 1999 ss 113-117 (see PARAS 241-243 post) makes provision in connection with the issue, calculation and notification of credit approvals for the Authority and the functional bodies in place of the Local Government and Housing Act 1989 ss 53-55: see the Greater London Authority Act 1999 s 112.

5 See PARA 244 post.

6 See PARA 245 post.

7 As to the Mayor of London see PARA 81 ante.

8 See PARA 246 post.

9 See PARA 253 post.

#### **UPDATE**

#### **240 Regulation of capital expenditure and borrowing of the Greater London Authority and the functional bodies**

NOTE 3--Greater London Authority Act 1999 s 111 repealed: Local Government Act 2003 Sch 8 Pt 1.

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/3. THE GREATER LONDON AUTHORITY/(7) FINANCE/(ii) Capital Finance/B. CREDIT APPROVALS/241. Aggregate and additional credit approvals for the Greater London Authority and the functional bodies.

## ***B. CREDIT APPROVALS***

### **241. Aggregate and additional credit approvals for the Greater London Authority and the functional bodies.**

Before the beginning of each financial year<sup>1</sup> the Secretary of State<sup>2</sup> must issue to the Mayor of London<sup>3</sup>, in the form of a notice<sup>4</sup> in writing, a credit approval with respect to the credit arrangements<sup>5</sup> and expenditure for capital purposes<sup>6</sup> during that year of the Greater London Authority<sup>7</sup> and each of the functional bodies. This is referred to as an 'aggregate credit approval'<sup>8</sup>. A credit approval so issued<sup>9</sup> may be nil but, subject to that, must consist of such number of specified<sup>10</sup> amounts of money, for such authorities<sup>11</sup> or purposes, as the Secretary of State may determine<sup>12</sup>.

Any Minister of the Crown<sup>13</sup> may at any time issue to the Mayor, in the form of a notice in writing, a credit approval with respect to credit arrangements and expenditure for capital purposes<sup>14</sup>, which has effect for such period as is specified in the approval<sup>15</sup>. This is referred to as an 'additional credit approval'.

1 For the meaning of 'financial year' see PARA 131 note 21 ante.

2 As to the Secretary of State see PARA 12 note 2 ante.

3 As to the Mayor of London see PARA 81 ante.

4 For the meaning of 'notice' see PARA 83 note 10 ante.

5 References in the Greater London Authority Act 1999 Pt III Ch IV (ss 111-126) to credit arrangements, or to entering into credit arrangements, are construed in accordance with the Local Government and Housing Act 1989 Pt IV (ss 39-66) (as amended) (see s 48; and LOCAL GOVERNMENT vol 29(1) (Reissue) PARA 579 et seq): Greater London Authority Act 1999 s 126(2). For general provisions as to local government finance see LOCAL GOVERNMENT vol 29(1) (Reissue) PARAS 514-618, 624-634.

6 In *ibid* Pt III Ch IV (ss 111-126) 'expenditure for capital purposes' has the same meaning as in the Local Government and Housing Act 1989 Pt IV (ss 39-66) (as amended) (see s 40; and LOCAL GOVERNMENT vol 29(1) (Reissue) PARA 562); Greater London Authority Act 1999 s 126(1).

7 As to the establishment of the Greater London Authority see PARA 79 ante.

8 Greater London Authority Act 1999 s 113(1). As to the functional bodies see PARAS 213-218 ante. As to the regulation of the capital expenditure and borrowing of the Authority and the functional bodies generally see PARA 240 ante. The Secretary of State must send to each of the functional bodies a copy of any credit approval issued under s 113: s 113(2). As to the criteria for issuing credit approvals see PARA 242 post. As to the specification of amortisation periods in credit approvals see PARA 243 post.

9 *Ie* issued under *ibid* s 113.

10 For these purposes 'specified' means specified by the Secretary of State in the approval: *ibid* s 113(6).

11 For these purposes 'authority' means the Greater London Authority or any of the functional bodies: *ibid* s 113(6).

12 *Ibid* s 113(3). Each amount so determined and specified by the Secretary of State must be an amount of a category described for the purposes of Pt III Ch IV as follows (s 113(4)):

- 52 (1) a category A amount is an amount for a specified authority with respect to the authority's credit arrangements and expenditure for capital purposes during the financial year for which the approval is given (s 113(5)(a));
- 53 (2) a category B amount is an amount for a specified authority with respect to the authority's credit arrangements and expenditure for capital purposes of one or more specified descriptions during that year (s 113(5)(b));
- 54 (3) a category C amount is an amount with respect to credit arrangements and expenditure for capital purposes during that year for allocation by the Mayor to such one or more of the authorities, and in such proportions, as he may see fit, and for such purposes consisting of or comprised within those purposes as he may state in the notice of an allocation (s 113(5)(c)); and
- 55 (4) a category D amount is an amount with respect to credit arrangements and expenditure for capital purposes of one or more specified descriptions during that year for allocation by the Mayor to such one or more of the authorities, and in such proportions, as he may see fit, and for such purposes consisting of or comprised within those purposes as he may state in the notice of an allocation (s 113(5)(d)).

Where the Mayor makes an allocation from a category C or D amount under an aggregate credit approval to the Greater London Authority, or under an additional credit approval to the Authority or a functional body, he must give notice of the allocation to each of the functional bodies: s 115(1). Where the Mayor makes an allocation to a functional body from a category C or D amount under an aggregate credit approval, notice of the allocation must be given to each of the functional bodies by including a statement of the amount so allocated (together with a statement of the purposes for which the amount is allocated) in section B of the capital spending plan pursuant to s 122(4)(d) (see PARA 246 note 3 post): s 115(2). 'Notice', in relation to an allocation from a category C or D amount, means the notice of allocation given in accordance with s 115(1), (2): ss 115(3), 126(1). In Pt III Ch IV 'capital spending plan' means a capital spending plan under s 122 (see PARA 246 post): s 126(1).

Where a category A or B amount is specified for an authority in an aggregate credit approval or an additional credit approval, so much of the approval as relates to that amount must be treated for the purposes of the Local Government and Housing Act 1989 Pt IV (ss 39-66) (as amended) (other than ss 53-55) as a credit approval issued to that authority under Pt IV (as amended): Greater London Authority Act 1999 s 118(1). Where an allocation from a category C or D amount specified in an aggregate credit approval or an additional credit approval is made by the Mayor to the Greater London Authority or to a functional body, the notice of the allocation (read with so much of the credit approval as relates to the allocation) must be treated for the purposes of the Local Government and Housing Act 1989 Pt IV (as amended) as a credit approval issued under Pt IV to the Authority or, as the case may be, to the functional body: Greater London Authority Act 1999 s 118(2). The Local Government and Housing Act 1989 s 56 (use of basic credit approvals and supplementary credit approvals) (see LOCAL GOVERNMENT vol 29(1) (Reissue) PARAS 564-565) applies in relation to a credit approval treated by virtue of the Greater London Authority Act 1999 s 118(1) or (2) as issued under the Local Government and Housing Act 1989 Pt IV (as amended) as it applies in relation to a basic credit approval or a supplementary credit approval: Greater London Authority Act 1999 s 118(3). As to basic credit approvals see LOCAL GOVERNMENT vol 29(1) (Reissue) PARA 566. As to supplementary credit approvals see LOCAL GOVERNMENT vol 29(1) (Reissue) PARA 567.

13 As to the meaning of 'Minister of the Crown' see PARA 12 note 1 ante.

14 Greater London Authority Act 1999 s 114(1). As to the criteria for issuing credit approvals see PARA 242 post. As to the specification of amortisation periods in credit approvals see PARA 243 post. The provisions of s 113(2)-(6) (see the text and notes 1-12 supra) apply in relation to an additional credit approval as they apply in relation to an aggregate credit approval, but taking any reference to the Secretary of State as a reference to the Minister of the Crown issuing the approval (s 114(4)(a)), and any reference to the financial year for which the approval is given as a reference to the period for which the approval has effect (s 114(4)(b)).

15 Ibid s 114(2). Where an additional credit approval is issued not more than six months after the end of a financial year, the period specified under s 114(2) may be one which begins, or begins and ends, at any time during that financial year: s 114(3).

## UPDATE

### 241-243 Credit Approvals

Greater London Authority Act 1999 ss 112-118 repealed: Local Government Act 2003 Sch 7 para 71. For transitional provision see SI 2003/2938.



Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/3. THE GREATER LONDON AUTHORITY/(7) FINANCE/(ii) Capital Finance/B. CREDIT APPROVALS/242. Criteria for issuing credit approvals.

## **242. Criteria for issuing credit approvals.**

In determining any amount to be specified in an aggregate credit approval<sup>1</sup> or an additional credit approval<sup>2</sup>, the Secretary of State<sup>3</sup> or other Minister may have regard to such factors as appear to him to be appropriate<sup>4</sup> and may in particular<sup>5</sup> have regard to:

- 378 (1) the amount of any grants or contributions which it appears to him that a relevant authority<sup>6</sup> has received and is likely to receive from any person in respect of expenditure incurred by the authority or to be incurred by the authority before the expiry of the period for which the credit approval is to have effect<sup>7</sup>; and
- 379 (2) the amount of capital receipts<sup>8</sup> which it appears to him that any relevant authority has received, might reasonably be expected to have received or to receive or is likely to receive before the expiry of the period for which the credit approval is to have effect<sup>9</sup>.

In determining any amount to be specified in the aggregate credit approval or in an additional credit approval to be issued to the Mayor in any financial year<sup>10</sup>, the Secretary of State or other Minister must not take account of the extent to which it appears to him that any relevant authority is, or is likely to be, in a position to finance expenditure for capital purposes<sup>11</sup> from a revenue account<sup>12</sup>.

1 For the meaning of 'aggregate credit approval' see PARA 241 ante.

2 For the meaning of 'additional credit approval' see PARA 241 ante.

3 As to the Secretary of State see PARA 12 note 2 ante.

4 Greater London Authority Act 1999 s 117(1). As to the regulation of the capital expenditure and borrowing of the Greater London Authority and the functional bodies generally see PARA 240 ante. As to the establishment of the Greater London Authority see PARA 79 ante. As to the functional bodies see PARAS 213-218 ante.

5 Ie without prejudice to the generality of *ibid* s 117(1) (see the text and notes 1-4 *supra*).

6 In *ibid* s 117 'relevant authority', in the case of any credit approval, means (as respects a category A or B amount), the authority for which the amount is to be specified (s 117(5)(a)), and means (as respects a category C or D amount), any authority to which an allocation from that amount may be made by the Mayor of London in accordance with the approval (s 117(5)(b)). In Pt III Ch IV (ss 111-126), 'category', denoted by a following capital letter and used in relation to an amount, is construed in accordance with s 113(5) (see PARA 241 note 12 ante): s 126(1). As to the Mayor of London see PARA 81 ante.

7 *Ibid* s 117(2)(a).

8 In *ibid* Pt III Ch IV 'capital receipts' has the same meaning as in the Local Government and Housing Act 1989 Pt IV (ss 39-66) (as amended) (see s 58; and LOCAL GOVERNMENT vol 29(1) (Reissue) PARAS 606-608): Greater London Authority Act 1999 s 126(1). For general provisions as to local government finance see LOCAL GOVERNMENT vol 29(1) (Reissue) PARAS 514-618, 624-634.

9 *Ibid* s 117(2)(b). Section 117(2)(b) is subject to the proviso that in determining any amount to be specified in an aggregate credit approval or an additional credit approval, the Secretary of State or other Minister must not take account of capital receipts: (1) to the extent that a relevant authority is required to set aside the receipts as provision for credit liabilities (s 117(3)(a)); (2) to the extent that they are received as mentioned in the Local Government and Housing Act 1989 s 59(7) (see LOCAL GOVERNMENT vol 29(1) (Reissue) PARA 611) (Greater London Authority Act 1999 s 117(3)(b)); or (3) to the extent that their amount falls to be treated as

reduced for any purpose under the Local Government and Housing Act 1989 s 59(8) or (9) (see LOCAL GOVERNMENT vol 29(1) (Reissue) PARA 614) (Greater London Authority Act 1999 s 117(3)(c)).

10 For the meaning of 'financial year' see PARA 131 note 21 ante.

11 As to the meaning of 'expenditure for capital purposes' see PARA 241 note 6 ante.

12 Greater London Authority Act 1999 s 117(4).

## **UPDATE**

### **241-243 Credit Approvals**

Greater London Authority Act 1999 ss 112-118 repealed: Local Government Act 2003 Sch 7 para 71. For transitional provision see SI 2003/2938.



Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/3. THE GREATER LONDON AUTHORITY/(7) FINANCE/(ii) Capital Finance/B. CREDIT APPROVALS/243. Credit approvals to specify amortisation periods.

### **243. Credit approvals to specify amortisation periods.**

Where regulations made by the Secretary of State<sup>1</sup> so require, an aggregate credit approval<sup>2</sup> or an additional credit approval<sup>3</sup> must specify, directly or by reference to tables or other documents specified in the approval, an amortisation period<sup>4</sup>, that is, a period during which a relevant authority is required to set aside, from a revenue account, as provision to meet credit liabilities, such amounts as may be appropriately determined<sup>5</sup>. If regulations<sup>6</sup> so provide, an aggregate credit approval or an additional credit approval may specify different amortisation periods in relation to the use<sup>7</sup> of the approval in respect of credit arrangements<sup>8</sup> and expenditure for capital purposes of different descriptions<sup>9</sup> or different amortisation periods in relation to different amounts specified in the approval<sup>10</sup>.

1 As to the Secretary of State see PARA 12 note 2 ante.

2 For the meaning of 'aggregate credit approval' see PARA 241 ante.

3 For the meaning of 'additional credit approval' see PARA 241 ante.

4 Greater London Authority Act 1999 s 116(1). At the date at which this volume states the law no such regulations had been made. As to the making of regulations generally see PARA 13 ante. As to the regulation of the capital expenditure and borrowing of the Greater London Authority and the functional bodies generally see PARA 240 ante. As to the establishment of the Greater London Authority see PARA 79 ante. As to the functional bodies see PARAS 213-218 ante.

Section 116(1) does not apply in relation to a category B credit approval issued in respect of expenditure which is treated as expenditure for capital purposes of a relevant authority by virtue only of directions under the Local Government and Housing Act 1989 s 40(6) (Greater London Authority Act 1999 s 116(4)), but the Secretary of State or other Minister issuing a category B credit approval may specify in the approval, directly or by reference to tables or other documents specified in the approval, an amortisation period in respect of such expenditure as is mentioned in s 116(4) (see s 116(5)). As to the meaning of 'category' see PARA 242 note 6 ante; and as to categories A-D see PARA 241 note 12 ante. For these purposes 'category B credit approval' means an aggregate credit approval or an additional credit approval to the extent that the approval consists of a category B amount: s 116(7). As to the meaning of 'expenditure for capital purposes' see PARA 241 note 6 ante. For these purposes 'relevant authority', in the case of any credit approval, means an authority for which a category A or B amount is specified in the approval (s 116(7)(a)), or to which a category C or D amount is allocated under the approval (s 116(7)(b)).

5 Ibid s 116(2). For these purposes 'appropriately determined', in its application for the purposes of s 116(1) (see the text and notes 1-4 supra), means determined in accordance with regulations under s 116(1) (see s 116(6)(a)), and in its application for the purposes of s 116(5), means determined in accordance with the approval (see s 116(6)(b)).

6 I.e. regulations under ibid s 116(1) (see the text and notes 1-4 supra).

7 Any reference in ibid Pt III Ch IV (ss 111-126) to the use of an aggregate credit approval or an additional credit approval is a reference to the use, under the Local Government and Housing Act 1989 Pt IV (ss 39-66) (as amended) or any other enactment, of any credit approvals treated as issued under Pt IV (as amended) by virtue of the application of the Greater London Authority Act 1999 s 118(1), (2) (see PARA 241 note 12 ante) in relation to the aggregate credit approval or, as the case may be, the additional credit approval, and related expressions are construed accordingly: ss 118(4), 126(1).

8 For the meaning of 'credit arrangements' see PARA 241 note 5 ante.

9 Greater London Authority Act 1999 s 116(3)(a).

10 Ibid s 116(3)(b).

**UPDATE**

**241-243 Credit Approvals**

Greater London Authority Act 1999 ss 112-118 repealed: Local Government Act 2003 Sch 7 para 71. For transitional provision see SI 2003/2938.

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/3. THE GREATER LONDON AUTHORITY/(7) FINANCE/(ii) Capital Finance/C. REDISTRIBUTION OF CAPITAL RECEIPTS/244. Power to redistribute capital receipts of the functional bodies.

### ***C. REDISTRIBUTION OF CAPITAL RECEIPTS***

#### **244. Power to redistribute capital receipts of the functional bodies.**

The Secretary of State<sup>1</sup> may make regulations for and in connection with conferring on the Mayor of London<sup>2</sup> power to direct any functional body<sup>3</sup> to pay to the Greater London Authority<sup>4</sup> such percentage as may be specified in the direction of so much of the usable part<sup>5</sup> of the body's capital receipts<sup>6</sup> as may be so specified<sup>7</sup>. The power conferred on the Mayor is exercisable only for the purpose of enabling the amount paid under such a direction to be applied towards meeting expenditure for capital purposes of another functional body or of the Authority<sup>8</sup>.

1 As to the Secretary of State see PARA 12 note 2 ante.

2 As to the Mayor of London see PARA 81 ante.

3 As to the functional bodies see PARAS 213-218 ante.

4 As to the establishment of the Greater London Authority see PARA 79 ante.

5 In the Greater London Authority Act 1999 Pt III Ch IV (ss 111-126) 'the usable part', in relation to capital receipts, has the same meaning as in the Local Government and Housing Act 1989 Pt IV (ss 39-66) (as amended) (see s 60; and LOCAL GOVERNMENT vol 29(1) (Reissue) PARA 610); Greater London Authority Act 1999 s 126(1).

6 As to the meaning of 'capital receipts' see PARA 242 note 8 ante.

7 Greater London Authority Act 1999 s 119(1). At the date at which this volume states the law no such regulations had been made. As to the making of regulations generally see PARA 13 ante. As to the regulation of the capital expenditure and borrowing of the Authority and the functional bodies generally see PARA 240 ante.

The provision that may be made by regulations under s 119(1) includes provision: (1) with respect to the percentage or maximum percentage that may be specified in a direction (s 119(3)(a)); (2) with respect to the portion of the usable part of a functional body's capital receipts in respect of which a direction may be issued (s 119(3)(b)); (3) requiring a direction to be complied with before the expiration of a prescribed period (s 119(3)(c)); (4) requiring the Mayor, within such time or in such manner as may be prescribed, to notify the functional bodies of decisions taken with respect to the exercise of powers conferred by the regulations (s 119(3)(d)); (5) for and in connection with enabling the Mayor to permit the relevant amount (ie the amount paid under such a direction) to be applied towards meeting expenditure for capital purposes of the assisted body (ie the other functional body) generally or to require it to be applied towards meeting only such expenditure of a particular description (s 119(3)(e)); (6) for and in connection with treating the whole or a prescribed part of the relevant amount as added to the usable part of the capital receipts of the assisted body, for the purposes of the Local Government and Housing Act 1989 Pt IV (as amended) (s 119(3)(f)); and (7) for and in connection with requiring an assisted body to apply the relevant amount only for the purposes for which it was paid to the body (s 119(3)(g)). For these purposes 'prescribed' means prescribed by regulations: s 119(4). At the date at which this volume states the law no such regulations had been made. For the meaning of 'notify' see PARA 83 note 10 ante. As to the meaning of 'expenditure for capital purposes' see PARA 241 note 6 ante. For general provisions as to local government finance see LOCAL GOVERNMENT vol 29(1) (Reissue) PARAS 514-618, 624-634.

8 Ibid s 119(2).

### **UPDATE**

#### **244 Power to redistribute capital receipts of the functional bodies**

TEXT AND NOTE 7--Greater London Authority Act 1999 s 119(1) repealed in part: Local Government Act 2003 Sch 8.

NOTE 7--Greater London Authority Act 1999 s 119(3)(b) repealed in part: Local Government Act 2003 Sch 8. Greater London Authority Act 1999 s 119(3)(e) amended and s 119(3)(f) substituted: Local Government Act 2003 Sch 7 para 72(3).

TEXT AND NOTE 8--Greater London Authority Act 1999 s 119(2) amended: Local Government Act 2003 Sch 7 para 72(2).

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/3. THE GREATER LONDON AUTHORITY/(7) FINANCE/(ii) Capital Finance/D. CAPITAL AND REVENUE GRANTS/245. Payment of capital and revenue grants for purposes of the functional bodies.

## ***D. CAPITAL AND REVENUE GRANTS***

### **245. Payment of capital and revenue grants for purposes of the functional bodies.**

The Greater London Authority<sup>1</sup> may pay grants towards meeting expenditure incurred or to be incurred by a functional body<sup>2</sup> for the purposes of, or in connection with, the discharge of the functions of that body<sup>3</sup>. A functional body may, with the consent of the Mayor of London, pay a grant towards meeting expenditure incurred or to be incurred by another functional body, or by the Authority, for the purposes of, or in connection with, the discharge of the functions of the body to which the grant is made<sup>4</sup>.

1 As to the establishment of the Greater London Authority see PARA 79 ante. The functions conferred or imposed on the Authority under or by virtue of the Greater London Authority Act 1999 Pt III (ss 81-140) are functions of the Authority which are exercisable by the Mayor of London acting on behalf of the Authority: s 140(1). As to the Mayor of London see PARA 81 ante. As to the functions of the Greater London Authority see PARA 164 et seq ante.

2 As to the functional bodies see PARAS 213-218 ante.

3 Greater London Authority Act 1999 ss 120(1), 121(1). The grants which may be paid under ss 120, 121 may be expressed as grants towards meeting expenditure for capital purposes (these are called 'capital grants', and are made under s 120) or as grants towards meeting expenditure other than for capital purposes (these are called 'revenue grants', and are made under s 121).

A capital grant must not be made subject to any limitation in respect of the expenditure for capital purposes towards meeting which it may be applied (s 120(3)), and must be applied by the recipient body solely towards meeting expenditure for capital purposes incurred or to be incurred by that body for the purposes of, or in connection with, the discharge of its functions (s 120(4)).

A revenue grant must not be made subject to any limitation in respect of the expenditure towards meeting which it may be applied other than that the expenditure must not be expenditure for capital purposes (s 121(3)), and must be applied by the recipient body solely towards meeting expenditure incurred or to be incurred by that body for the purposes of, or in connection with, the discharge of its functions, other than expenditure for capital purposes (s 121(4)).

As to the meaning of 'expenditure for capital purposes' see PARA 241 note 6 ante. As to the regulation of the capital expenditure and borrowing of the functional bodies generally see PARA 240 ante. For general provisions as to local government finance see LOCAL GOVERNMENT vol 29(1) (Reissue) PARAS 514-618, 624-634.

4 Ibid ss 120(2), 121(2). See note 3 supra.

## **UPDATE**

### **245 Payment of capital and revenue grants for purposes of the functional bodies**

TEXT AND NOTES--Greater London Authority Act 1999 ss 120, 121 amended: Local Government Act 2003 Sch 7 paras 73, 74.

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/3. THE GREATER LONDON AUTHORITY/(7) FINANCE/(ii) Capital Finance/E. THE CAPITAL SPENDING PLAN/246. Content and preparation of capital spending plan.

## ***E. THE CAPITAL SPENDING PLAN***

### **246. Content and preparation of capital spending plan.**

The Mayor of London<sup>1</sup> must prepare, for each financial year<sup>2</sup>, a capital spending plan for the functional bodies<sup>3</sup>. The plan must initially be prepared, after the Secretary of State has issued the aggregate credit approval for the financial year, in draft form<sup>4</sup>, and, before finally determining the contents of the plan, the Mayor must consider any comments on the draft submitted by the London Assembly<sup>5</sup> and each functional body<sup>6</sup> and make such revisions of the draft as he thinks fit, having regard to those comments<sup>7</sup>. The Mayor must then send the plan to the Secretary of State, and a copy of it to the Assembly and each functional body, before 28 February in the financial year preceding that to which the plan relates<sup>8</sup>.

In preparing a capital spending plan<sup>9</sup> for any financial year, the Mayor may take account of such factors as appear to him to be appropriate<sup>10</sup>.

1 As to the Mayor of London see PARA 81 ante.

2 For the meaning of 'financial year' see PARA 131 note 21 ante.

3 Greater London Authority Act 1999 s 122(1). As to the functional bodies see PARAS 213-218 ante. As to the regulation of the capital expenditure and borrowing of the Greater London Authority and the functional bodies generally see PARA 240 ante. The capital spending plan must be prepared in accordance with ss 122(2)-(6), 123, 124 (see the text and notes 4-10 infra), and must consist of four sections (s 122(2)), as follows:

Section A of a capital spending plan must consist of a statement for each functional body of the Mayor's estimates of:

- 56 (1) the total amount of capital grants likely to be paid to the body during the year by any person other than the Greater London Authority (s 122(3)(a));
- 57 (2) the amount, at the beginning of the year, of the usable part of the body's capital receipts (s 122(3)(b)); and
- 58 (3) the amount by which the usable part of the body's capital receipts is likely to be increased by capital receipts which it appears to the Mayor the functional body might reasonably be expected to receive, or is likely to receive, during the year (s 122(3)(c)).

As to the payment of capital grants see PARA 245 ante. As to the establishment of the Greater London Authority see PARA 79 ante. As to the meaning of 'the usable part' see PARA 244 note 5 ante. As to the meaning of 'capital receipts' see PARA 242 note 8 ante.

Section B of a capital spending plan must consist of a statement for each functional body of:

- 59 (a) if the Mayor has decided a minimum amount of grant which the Authority is to pay to the body for the year under s 120(1) (see PARA 245 ante), that minimum amount (s 122(4)(a));
- 60 (b) the total amount of category A amounts specified for the body in the aggregate credit approval for the year (s 122(4)(b));
- 61 (c) the total amount of category B amounts specified for the body in the aggregate credit approval for the year (s 122(4)(c)); and
- 62 (d) each amount which the Mayor has decided to allocate to the body out of the category C and D amounts specified in the aggregate credit approval for the year (together with a statement of the purposes for which the amount is allocated) (s 122(4)(d)).

As to the meaning of 'category' see PARA 242 note 6 ante. As to categories A-D see PARA 241 note 12 ante. For the meaning of 'aggregate credit approval' see PARA 241 ante.

Section C of a capital spending plan must consist of a statement for each functional body of the total of:

- 63 (i) the total amount of expenditure for capital purposes which the Mayor expects the body to incur during the year (s 122(5)(a)); and
- 64 (ii) the total amount of credit cover which the Mayor expects the body to have available under the Local Government and Housing Act 1989 ss 50(2), 51(4) (see LOCAL GOVERNMENT vol 29(1) (Reissue) PARAS 585, 592) with respect to credit arrangements entered into or varied during the year (Greater London Authority Act 1999 s 122(5)(b)).

The total of those amounts is referred to as the body's 'total capital spending' for the year: s 122(5). As to the meaning of 'expenditure for capital purposes' see PARA 241 note 6 ante. As to the meaning of 'credit arrangements' see PARA 241 note 5 ante.

Section D of a capital spending plan must consist of an analysis of each functional body's total capital spending for the year showing:

- 65 (A) the amount which the Mayor expects the body to meet out of capital grants (s 122(6)(a));
- 66 (B) the amount which he expects the body to meet out of the usable part of its capital receipts (s 122(6)(b));
- 67 (C) the amount which he expects the body to meet by using the aggregate credit approval for the year (s 122(6)(c));
- 68 (D) the amount which he expects the body to meet by making a charge to a revenue account (s 122(6)(d)).

4 Ibid s 123(1). As to the issuing of the aggregate credit approval see PARA 241 ante.

5 As to the London Assembly see PARA 82 ante.

6 Greater London Authority Act 1999 s 123(3). Before 15 January in the financial year preceding that to which the capital spending plan relates, the Mayor must send a copy of the draft to the Assembly and to each functional body (s 123(2)(a)) and invite them to submit their comments on the draft to him in writing within 21 days (s 123(2)(b)).

7 Ibid s 123(3).

8 Ibid s 123(4). A copy of the plan must be kept available for the appropriate period (ie the period of six years beginning with the date of publication of that plan pursuant to s 123 (s 123(7))) by the Mayor for inspection by any person on request free of charge at the principal offices of the Greater London Authority at reasonable hours (s 123(5)). A copy of the plan, or any part of it, must be supplied to any person on request during the appropriate period for such reasonable fee as the Mayor may determine (s 123(6)).

9 The reference in ibid s 124(1) to preparing a capital spending plan for a financial year includes a reference to deciding, in the case of each of the functional bodies, the minimum amount of grant which the Greater London Authority is to pay to the body for the year under s 120 (see PARA 245 ante) (s 124(2)(a)) and the amounts to be allocated to the body out of the category C and D amounts specified in the aggregate credit approval for the year (s 124(2)(b)).

10 Ibid s 124(1). The Mayor may in particular take account of the capital spending plans for such financial years which have ended as he may determine (s 124(3)(a)) and the amounts of each functional body's total capital spending specified in section C of each of those plans which have been met as follows (s 124(3)(b)):

- 69 (1) the amount met out of capital grants made to the body (s 124(4)(a));
- 70 (2) the amount met out of the usable part of the body's capital receipts (s 124(4)(b));
- 71 (3) the amount met by using the aggregate credit approval or any additional credit approvals (s 124(4)(c));
- 72 (4) the amount met by making a charge to a revenue account (s 124(4)(d)).

As to the issuing of the additional credit approval see PARA 241 ante.

## UPDATE

## **246 Content and preparation of capital spending plan**

TEXT AND NOTES--Greater London Authority Act 1999 ss 122-124 amended: Local Government Act 2003 Sch 7 paras 75-77, Sch 8.



Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/3. THE GREATER LONDON AUTHORITY/(7) FINANCE/(iii) Financial Administration, Accounts and Audit/A. MAINTENANCE OF GENERAL FUND/247. The Greater London Authority's general fund.

### **(iii) Financial Administration, Accounts and Audit**

#### ***A. MAINTENANCE OF GENERAL FUND***

##### **247. The Greater London Authority's general fund.**

As from a date to be specified in regulations<sup>1</sup>, the Greater London Authority<sup>2</sup> is required to establish and maintain<sup>3</sup> a fund, to be called its general fund<sup>4</sup>.

1 Local Government Finance Act 1988 s 91(3C) (added by the Greater London Authority Act 1999 s 106(1), (4)). At the date at which this volume states the law no regulations specifying a date for the purposes of the establishment of the Greater London Authority's general fund had been made.

2 As to the establishment of the Greater London Authority see PARA 79 ante. The functions conferred or imposed on the Authority under or by virtue of *ibid* Pt III (ss 81-140) are functions of the Authority which are exercisable by the Mayor of London acting on behalf of the Authority: s 140(1). As to the Mayor of London see PARA 81 ante. As to the functions of the Greater London Authority see PARA 164 et seq post.

3 *Ie* in accordance the Local Government Finance Act 1988 Pt VI (ss 89-99) (as amended).

4 *Ibid* s 91(1)(ab), (2) (s 91(1)(ab) added by the Greater London Authority Act 1999 s 106(1), (2)). For provisions as to the establishment and maintenance of the general fund under the Local Government Finance Act 1988 Pt VI (as amended) see LOCAL GOVERNMENT vol 29(1) (Reissue) PARA 545 et seq.

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/3. THE GREATER LONDON AUTHORITY/(7) FINANCE/(iii) Financial Administration, Accounts and Audit/B. STATEMENT AND AUDIT OF ACCOUNTS/248. Summary statement of accounts of the Greater London Authority and other bodies.

## **B. STATEMENT AND AUDIT OF ACCOUNTS**

### **248. Summary statement of accounts of the Greater London Authority and other bodies.**

For each financial year<sup>1</sup> the Greater London Authority<sup>2</sup> must prepare a summary statement of accounts<sup>3</sup> in respect of the Authority, the functional bodies and the London Pensions Fund Authority<sup>4</sup>. Each of the functional bodies and the London Pensions Fund Authority<sup>5</sup> must, at the request of the Mayor of London<sup>6</sup>, provide the Greater London Authority with such information relating to any accounts or statement of accounts of the body as may be specified or described in the request<sup>7</sup>.

1 For the meaning of 'financial year' see PARA 131 note 21 ante.

2 As to the establishment of the Greater London Authority see PARA 79 ante.

3 Greater London Authority Act 1999 s 134(1). This duty to prepare a summary statement of accounts is without prejudice to any other duty of the Authority, a functional body or the London Pensions Fund Authority to prepare accounts or statements of accounts: s 134(3). As to the functional bodies see PARAS 213-218 ante. As to the London Pensions Fund Authority see PARAS 225-231 ante. The Audit Commission Act 1998 s 14 (inspection of statements of accounts and auditors' reports) (see LOCAL GOVERNMENT vol 69 (2009) PARA 769) applies in relation to a summary statement of accounts required to be prepared under the Greater London Authority Act 1999 s 134 as it applies in relation to a statement of accounts prepared by the Authority under regulations under the Audit Commission Act 1998 s 27 (see LOCAL GOVERNMENT vol 29(1) (Reissue) PARA 628): Greater London Authority Act 1999 s 134(4). The Audit Commission Act 1998 s 27 accordingly applies in relation to a summary statement of accounts required to be prepared under the Greater London Authority Act 1999 s 134 as it applies in relation to accounts or statements of accounts: see s 134(6); and the Accounts and Audit Regulations 1996, SI 1996/590 (amended by SI 1997/2747; SI 2000/3237; SI 2001/3244)). The Audit Commission Act 1998 ss 15-24 (as amended) (public inspection and action by the auditor, and prevention of unlawful expenditure) (see LOCAL GOVERNMENT vol 69 (2009) PARAS 770-775) do not apply in relation to a summary statement of accounts required to be prepared under the Greater London Authority Act 1999 s 134: s 134(5). As to audit see further PARA 249 post.

4 Ibid s 134(2).

5 Ibid s 135(2).

6 As to the Mayor of London see PARA 81 ante.

7 Greater London Authority Act 1999 s 135(1). The information that may be requested under s 135(1) is such information as may be required for the purpose of discharging the functions of the Authority under or by virtue of s 134 (see the text and notes 1-4 supra) (s 135(4)), and must be provided in such form and manner, and within such time, as may be specified in the request (s 135(3)).

## **UPDATE**

### **248 Summary statement of accounts of the Greater London Authority and other bodies**

NOTE 3--SI 1996/590 replaced, in relation to England, by the Accounts and Audit Regulations 2003, SI 2003/533 (amended by SI 2004/556, SI 2004/3168, SI 2006/564, SI 2008/912, SI 2009/473, SI 2009/3322), and, in relation to Wales, by the Accounts

and Audit (Wales) Regulations 2005, SI 2005/368 (amended by SI 2007/388, SI 2008/912, SI 2010/683).

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/3. THE GREATER LONDON AUTHORITY/(7) FINANCE/(iii) Financial Administration, Accounts and Audit/B. STATEMENT AND AUDIT OF ACCOUNTS/249. Audit of accounts.

## **249. Audit of accounts.**

The accounts of the Greater London Authority<sup>1</sup> and its functional bodies<sup>2</sup> must be made up each year to 31 March or such other date as the Secretary of State<sup>3</sup> may generally or in any special case direct<sup>4</sup> and must be audited in accordance with the Audit Commission Act 1998 by an auditor or auditors appointed by the Audit Commission for Local Authorities and the National Health Service in England and Wales<sup>5</sup>.

1 As to the establishment of the Greater London Authority see PARA 79 ante.

2 As to the functional bodies see PARAS 213-218 ante.

3 As to the Secretary of State see PARA 12 note 2 ante.

4 Audit Commission Act 1998 s 2(1)(a), Sch 2 para 1(bb), (bc) (Sch 2 para 1(bb), (bc) added by the Greater London Authority Act 1999 s 133(1)). As to audit see further PARA 248 ante.

5 Audit Commission Act 1998 s 2(1)(b), Sch 2 para 1(bb), (bc) (Sch 2 para 1(bb), (bc) as added: see note 4 supra). As to the Audit Commission for Local Authorities and the National Health Service in England and Wales, and as to audit under the Audit Commission Act 1998, see LOCAL GOVERNMENT vol 69 (2009) PARA 744 et seq.

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/3. THE GREATER LONDON AUTHORITY/(7) FINANCE/(iii) Financial Administration, Accounts and Audit/C. ADMINISTRATION OF FINANCIAL AFFAIRS BY CHIEF FINANCE OFFICER/250. Appointment and functions of the chief finance officer.

### ***C. ADMINISTRATION OF FINANCIAL AFFAIRS BY CHIEF FINANCE OFFICER***

#### **250. Appointment and functions of the chief finance officer.**

The Greater London Authority<sup>1</sup> and each of the functional bodies<sup>2</sup> must make arrangements for the proper administration of its financial affairs<sup>3</sup> and must secure that one of its officers (its 'chief finance officer') has responsibility for the administration of those affairs<sup>4</sup>. The principal function of the chief finance officer is to ensure that the Authority or the functional body in question does not act unlawfully or imprudently with regard to its expenditure<sup>5</sup>.

The chief finance officer of the Authority must be a member of staff<sup>6</sup> and must fulfil the same requirements with regard to professional qualifications, experience and impartiality as the responsible officer of a local authority<sup>7</sup>. The monitoring officer of the Authority<sup>8</sup> must not be the chief finance officer<sup>9</sup>. No person may be the chief finance officer of two or more relevant authorities<sup>10</sup> at the same time<sup>11</sup>.

1 As to the establishment of the Greater London Authority see PARA 79 ante.

2 As to the functional bodies see PARAS 213-218 ante.

3 Greater London Authority Act 1999 s 127(2)(a).

4 Ibid s 127(2)(b). The reference to 'officers' in s 127(2)(b) includes a reference to employees or members of staff and, in the case of Transport for London and the London Development Agency includes a reference to members of the relevant authority: s 127(4). If the Mayor of London is a member of Transport for London, he must not be its chief finance officer: s 127(7). The function of appointing the Authority's chief finance officer is a function of the Authority which is exercisable on behalf of the Authority by the London Assembly after consultation with the Mayor: s 127(6). As to Transport for London see PARAS 218, 269 et seq ante. As to the London Development Agency see TRADE AND INDUSTRY vol 97 (2010) PARA 988 et seq. As to the Mayor of London and the London Assembly see PARAS 81-82 ante. As to the functions of the Greater London Authority see PARA 164 et seq ante.

5 See the Local Government Finance Act 1988 Pt VIII (ss 111-116) (as amended); and PARAS 251-252 post. The Greater London Authority and each of the functional bodies are 'relevant authorities' for the purposes of Pt VIII (as amended) (see s 111(2)(bb), (bc) (added by the Greater London Authority Act 1999 s 128(1), (2))).

6 Ibid s 127(2). The reference in the text to a member of staff is a reference to a member of staff appointed under s 67(2) (see PARA 135 ante).

7 See the Local Government Finance Act 1988 s 113 (as amended); and LOCAL GOVERNMENT vol 29(1) (Reissue) PARA 625. The post of chief finance officer is a politically restricted post for the purposes of the Local Government and Housing Act 1989 Pt I (ss 1-21) (as amended): see s 2(6)(d) (amended by the Greater London Authority Act 1999 s 127(8)); and LOCAL GOVERNMENT vol 29(1) (Reissue) PARA 625; and LOCAL GOVERNMENT vol 69 (2009) PARA 122.

8 As to the monitoring officer of the Authority see PARA 137 ante.

9 See PARA 137 note 2 ante; and LOCAL GOVERNMENT vol 69 (2009) PARA 429.

10 Ie the Greater London Authority or one of the functional bodies, as the case may be (see the Greater London Authority Act 1999 s 127(1)).

11 Ibid s 127(3).

**UPDATE**

**250 Appointment and functions of the chief finance officer**

TEXT AND NOTES--As to the chief finance officer of the authority, see now the 1999 Act s 127A (added by the Greater London Authority Act 2007 s 10(2)).

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### **251. Duty of the chief finance officer to make reports.**

The chief finance officer<sup>1</sup> of the Greater London Authority<sup>2</sup> and of each of the functional bodies<sup>3</sup> is under a duty to make a report if it appears to him that the relevant authority<sup>4</sup>, a committee<sup>5</sup> thereof, a person holding any office or employment under the authority, a member of a police force maintained by the authority, or a joint committee<sup>6</sup> on which the authority is represented:

- 380 (1) has made or is about to make a decision which involves or would involve the authority incurring expenditure which is unlawful<sup>7</sup>;
- 381 (2) has taken or is about to take a course of action which, if pursued to its conclusion, would be unlawful and likely to cause a loss or deficiency on the part of the authority<sup>8</sup>; or
- 382 (3) is about to enter an item of account the entry of which is unlawful<sup>9</sup>.

The chief finance officer of a relevant authority must also make a report if it appears to him that the expenditure of the authority incurred (including expenditure it proposes to incur) in a financial year<sup>10</sup> is likely to exceed the resources (including sums borrowed) available to it to meet that expenditure<sup>11</sup>.

Where a chief finance officer has made a report he must send a copy of it to:

- 383 (a) the person who at the time the report is made has the duty to audit the authority's accounts<sup>12</sup>; and
- 384 (b) in a case where the relevant authority is the Greater London Authority, the Mayor of London and to each member of the London Assembly<sup>13</sup>, or in a case where the relevant authority is a functional body, each person who at that time is a member of the authority<sup>14</sup>.

A relevant authority must provide its chief finance officer with such staff, accommodation and other resources as are in his opinion sufficient to allow his duties to be performed<sup>15</sup>.

1 As to the appointment of the chief finance officer see PARA 250 ante.

2 As to the establishment of the Greater London Authority see PARA 79 ante.

3 See the Local Government Finance Act 1988 s 114(1) (amended by the Greater London Authority Act 1999 s 130(1), (2)); and see PARA 250 note 5 ante. As to the functional bodies see PARAS 213-218 ante.

4 I.e. the Greater London Authority or the functional body as the case may be.

5 For the purposes of the Local Government Finance Act 1988 s 114, references to a committee (joint or otherwise) include references to a sub-committee: s 114(8)(b). As to committees and sub-committees of the Greater London Authority see PARAS 146-148, 170-172 ante.

6 For the purposes of ibid s 114, references to a joint committee are to a committee on which two or more relevant authorities are represented: s 114(8)(a).

7 Ibid s 114(2)(a) (s 114(2) amended by the Police and Magistrates' Courts Act 1994 s 43, Sch 4 para 34). It is the duty of the chief finance officer, in preparing a report in pursuance of the Local Government Finance Act

1988 s 114(2) (as amended), to consult, so far as practicable, with the person who is for the time being designated as the head of the authority's paid service under the Local Government and Housing Act 1989 s 4 (Local Government Finance Act 1988 s 114(3A)(a) (s 114(3A) added by the Local Government and Housing Act 1989 s 139, Sch 5, paras 1, 77, 79(1))) and with the person who is for the time being responsible for performing the duties of the authority's monitoring officer under the Local Government and Housing Act 1989 s 5 (Local Government Finance Act 1988 s 114(3A)(b) (as added)). The Local Government and Housing Act 1989 ss 4, 5 do not apply to the Greater London Authority or its functional bodies and it is accordingly submitted that the reference to the head of the authority's paid service should be construed as a reference to a person appointed under the Greater London Authority Act 1999 s 407 (see PARA 16 ante) and that the reference to the authority's monitoring officer should be read as a reference to the monitoring officer appointed under s 73 (see PARA 137 ante). As to the head of the Authority's paid service see PARA 136 ante.

Special provision as to consultation during the preparation of a report in pursuance of the Local Government Finance Act 1988 s 114(2) is made in connection with the London Development Agency and Transport for London. In relation to the London Development Agency it is the duty of the chief finance officer to consult, so far as practicable, with the person who is for the time being appointed under the Regional Development Agencies Act 1998 Sch 2 para 4(2) as the chief executive of the London Development Agency (Local Government Finance Act 1988 s 114(3B) (s 114(3B), (3C), (3D) added by the Greater London Authority Act 1999 s 130(1), (3))), and in relation to Transport for London it is the duty of the chief finance officer to consult, so far as practicable, with the member of Transport for London, or a member of the staff of Transport for London, who is for the time being designated as the person who is to be consulted under the Local Government Finance Act 1988 s 114(3A) (s 114(3C), (3D) (as so added)). As to the London Development Agency see TRADE AND INDUSTRY vol 97 (2010) PARA 988 et seq. As to Transport for London see PARAS 218 ante, 269 et seq post.

The duties of the chief finance officer under s 114(2), (3) (see the text and notes 8-11 infra) must be performed by him personally (s 114(5)), subject to the proviso that if the chief finance officer is unable to act owing to absence or illness his duties must be performed: (1) by such member of his staff as is a member of one or more of the professional accounting bodies mentioned in s 113(3) (see LOCAL GOVERNMENT vol 29(1) (Reissue) PARA 625) and is for the time being nominated by the chief finance officer for the purposes of s 114 (as amended) (s 114(6)(a)); or (2) if no member of his staff is a member of one or more of those bodies, by such member of his staff as is for the time being nominated by the chief finance officer for the purposes of s 114 (as amended) (s 114(6)(b)).

8 Ibid s 114(2)(b) (as amended: see note 7 supra).

9 Ibid s 114(2)(c) (as amended: see note 7 supra).

10 For the meaning of 'financial year' see PARA 131 note 21 ante.

11 Local Government Finance Act 1988 s 114(3). See note 7 supra.

12 Ibid s 114(4)(a). As to the duties of the relevant authorities after a report has been sent see PARA 252 post.

13 Ibid s 114(4A)(a) (s 114(4A) added by the Greater London Authority Act 1999 s 130(1), (4)). As to the Mayor of London and the London Assembly see PARAS 81-82 ante. See note 12 supra.

14 Local Government Finance Act 1988 s 114(4)(b). Where the relevant authority is a functional body this includes a duty to send a copy of the report to the Mayor and to the Chair of the Assembly (see PARA 84 ante): s 114(4A)(b) (as added: see note 13 supra). See note 12 supra.

15 Ibid s 114(7).



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## **252. Duty to consider report made by the chief finance officer.**

Where copies of a report<sup>1</sup> by the chief finance officer<sup>2</sup> of the Greater London Authority<sup>3</sup> have been sent<sup>4</sup>, the London Assembly<sup>5</sup> must consider the report at a meeting<sup>6</sup> where it must decide whether it agrees or disagrees with the views contained in the report<sup>7</sup> and what action (if any) it recommends that the Mayor of London<sup>8</sup> should take in consequence of it<sup>9</sup>. After the meeting the Mayor, having given the report preparatory consideration for the purpose<sup>10</sup>, must decide whether he agrees or disagrees with the views contained in the report<sup>11</sup> and what action (if any) he proposes to take in consequence of it<sup>12</sup>.

Where copies of a report by the chief finance officer of a functional body<sup>13</sup> have been sent<sup>14</sup>, the body must consider the report at a meeting<sup>15</sup> where it must decide whether it agrees or disagrees with the views contained in the report and what action (if any) it proposes to take in consequence of it<sup>16</sup>.

If the report was made concerning unlawful expenditure or conduct<sup>17</sup>, then, during the prohibition period<sup>18</sup>, the course of conduct which led to the report being made must not be pursued<sup>19</sup>. If the report was made concerning expenditure exceeding resources<sup>20</sup>, then, during the prohibition period, the authority may not enter into any new agreement which may involve the incurring of expenditure (at any time) by the authority<sup>21</sup>.

1    le a report under the Local Government Finance Act 1988 s 114 (as amended) (see PARA 251 ante).

2    As to the appointment of the chief finance officer see PARA 250 ante.

3    As to the establishment of the Greater London Authority see PARA 79 ante.

4    Local Government Finance Act 1988 s 115(1A) (added by the Greater London Authority Act 1999 s 131(1), (2)); Local Government Finance Act 1988 s 115A(1) (s 115A added by the Greater London Authority Act 1999 s 131(9)). The reference in the text to a report having been sent is a reference to the report having been sent under the Local Government Finance Act 1988 s 114(4) (see PARA 251 ante).

5    As to the London Assembly see PARA 82 ante. The Greater London Authority Act 1999 s 54 (discharge of Assembly functions by committees etc) (see PARAS 170-171 ante) does not apply in relation to any function of the Assembly under the Local Government Finance Act 1988 s 115A (as added: see note 4 supra): s 115A(10) (as so added). As to the functions of the Greater London Authority see PARA 164 et seq ante.

6    The meeting must be held not later than the end of the period of 21 days beginning with the day on which the copies of the report are sent: *ibid* s 115A(4) (as added: see note 4 supra). The Mayor of London must attend the meeting: s 115A(5) (as so added). See also note 18 *infra*. As to the Mayor of London see PARA 81 ante.

7    *Ibid* s 115A(3)(a) (as added: see note 4 supra).

8    Any functions of the Mayor under *ibid* s 115A(3)(a) (as added) must be exercised by the Mayor personally: s 115A(9) (as added: see note 4 supra).

9    *Ibid* s 115A(3)(b) (as added: see note 4 supra).

10    *Ibid* s 115A(2) (as added: see note 4 supra). The reference in the text to the Mayor giving preparatory consideration is a reference to the Mayor considering the report preparatory to making the decisions under s 115A(6) (as added) (see the text and notes 11-12 *infra*).

11    *Ibid* s 115A(6)(a) (as added: see note 4 supra). See also note 18 *infra*.

12 Ibid s 115A(6)(b) (as added: see note 4 supra). In making any decision under s 115A(6) (as added), the Mayor must take account of any views or recommendations of the Assembly at the meeting (s 115A(7) (as so added)), and must make the decisions before the end of the period of 14 days beginning with the day on which the meeting of the Assembly concludes (s 115A(8) (as so added)). See also note 18 infra.

13 As to the functional bodies see PARAS 213-218 ante.

14 Local Government Finance Act 1988 s 115(1). The reference in the text to a report having been sent is a reference to the report having been sent under s 114(4) (see PARA 251 notes 12-14 ante).

15 The meeting must be held not later than the end of the period of 21 days beginning with the day on which the copies of the report are sent: ibid s 115(3). In the case of the London Development Agency and Transport for London, the Local Government Act 1972 Pt VA (ss 100A-100K) (as added and amended) (access to meetings etc) (see LOCAL GOVERNMENT vol 69 (2009) PARA 661 et seq) has effect in relation to the meeting as if the body were a principal council: Local Government Finance Act 1988 s 115(3A) (added by the Greater London Authority Act 1999 s 131(1), (3)). See note 18 infra. As to the London Development Agency see TRADE AND INDUSTRY vol 97 (2010) PARA 988 et seq. As to Transport for London see PARAS 218 ante, 269 et seq post. For the meaning of 'principal council' see LOCAL GOVERNMENT vol 69 (2009) PARA 23.

Where it is proposed to hold a meeting under the Local Government Finance Act 1988 s 115, the proper officer of the body in question must as soon as is reasonably practicable notify its auditor of the date, time and place of the proposed meeting: s 116(1). As soon as is reasonably practicable after such a meeting is held, the proper officer must notify the body's auditor of any decision made at the meeting: s 116(2). For these purposes, a body's proper officer is the person to whom the body has for the time being assigned responsibility to notify its auditor under s 116: s 116(3). As to the proper officer of the Greater London Authority see PARA 83 note 11 ante. For these purposes, a body's auditor is the person who for the time being has the duty to audit its accounts: s 116(4).

16 Ibid s 115(2). The Local Government Act 1972 s 101 (as amended) (delegation of local authority functions) (see LOCAL GOVERNMENT vol 69 (2009) PARA 370) does not apply to the duty under the Local Government Finance Act 1988 s 115(2) where the authority is one to which the Local Government Act 1972 s 101 would apply apart from the Local Government Finance Act 1988 s 115(4): s 115(4). In the case of the London Development Agency or Transport for London, neither the Regional Development Agencies Act 1998 Sch 2 para 7 (delegation by London Development Agency) or the Greater London Authority Act 1999 Sch 10 para 7 (delegation by Transport for London) applies to the duty under the Local Government Finance Act 1988 s 115(2): s 115(4A) (added by the Greater London Authority Act 1999 s 131(1), (4)). See also note 18 infra.

17 It was made under the Local Government Finance Act 1988 s 114(2) (see PARA 251 ante).

18 In ibid s 115, 'the prohibition period' means the period beginning with the day on which copies of the report are sent (s 115(9)(a)), and ending: (1) in the case of a report sent by the chief finance officer of the Greater London Authority, with the first business day to fall after the day (if any) on which the Mayor makes the decisions under s 115A(6) (as added) (see the text and notes 10-12 supra) (s 115(9A) (added by the Greater London Authority Act 1999 s 131(1), (5))); or (2) in the case of a report sent by the chief finance officer of a functional body, with the first business day to fall after the day (if any) on which the authority's consideration of the report under the Local Government Finance Act 1988 s 115(2) (see the text and notes 15-16 supra) is concluded (s 115(9)(b)). For these purposes, 'business day' means any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday in England and Wales: s 115(12); and see TIME. The nature of the decisions made at the meeting (see the text and notes 15-16 supra) or, as the case may be, by the Mayor under s 115A(6) (as added) (see the text and notes 11-12 supra), are immaterial for the purposes of 115(9)(b) or, as the case may be, s 115(9A) (as added) (s 115(11) (amended by the Greater London Authority Act 1999 s 131(1), (7))), and it is similarly immaterial for those purposes if the Local Government Finance Act 1988 s 115(3) (see note 15 supra) or, as the case may be, s 115A(4) or (8) (as added) (see notes 6, 12 supra), is not complied with (s 115(10) (amended by the Greater London Authority Act 1999 s 131(1), (6))).

In the application of the Local Government Finance Act 1988 s 115 (as amended) in relation to the Greater London Authority, the references to the authority in s 115(5)-(12) (see the text and notes 19-21 infra) must be taken as references to the Greater London Authority whether acting by the Mayor, the Assembly or the Mayor and Assembly acting jointly: s 115(13) (added by the Greater London Authority Act 1999 s 131(1), (8)).

19 Local Government Finance Act 1988 s 115(5). If s 115(5) is not complied with, and the relevant authority makes any payment in the prohibition period as a result of the course of conduct being pursued, it must be taken not to have had power to make the payment (notwithstanding any obligation to make it under contract or otherwise): s 115(7).

20 It was made under ibid s 114(3) (see PARA 251 ante).

21 Ibid s 115(6). If s 115(6) is not complied with, the authority is taken not to have had power to enter into the agreement (notwithstanding any option to do so under contract or otherwise): s 115(8).

**UPDATE**

**252 Duty to consider report made by the chief finance officer**

TEXT AND NOTE 21--Local Government Finance Act 1988 s 115(6) amended: Local Government Act 2003 s 30(1). See further Local Government Finance Act 1988 s 115(6A), (6B) (added by Local Government Act 2003 s 30(2)).

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## **D. INFORMATION**

### **253. Provision of financial information by the Greater London Authority and the functional bodies.**

The Greater London Authority<sup>1</sup> and its functional bodies<sup>2</sup> are under the same obligation as local authorities to make returns to the Secretary of State<sup>3</sup> of their income and expenditure<sup>4</sup>. The Authority, its functional bodies and certain officers of the Authority and the functional bodies are among the authorities and officers whom the Secretary of State may require to supply information including accounts estimates and returns<sup>5</sup> or information for the purposes of the Secretary of State's principal functions relating to council tax<sup>6</sup>.

A functional body must, at the request of the Mayor of London<sup>7</sup> or the London Assembly<sup>8</sup>, provide the Authority with such information relating to the financial affairs of the body as may be specified or described in the request<sup>9</sup>.

The Mayor may serve on a functional body a notice<sup>10</sup> requiring the body to supply to him such information as is specified in the notice and required by him for the purpose of deciding whether to exercise his powers, and how to perform his functions, under the provisions relating to the revenue accounts and capital finance of the Authority<sup>11</sup>. In deciding whether to exercise his powers, and how to perform his functions, under those provisions<sup>12</sup>, or whether a functional body has acted, or is likely to act, in accordance with them<sup>13</sup>, the Mayor may also take into account any other information available to him, whatever its source and whether or not obtained under a provision contained in or made under the Greater London Authority Act 1999 or any other enactment<sup>14</sup>.

1 As to the establishment of the Greater London Authority see PARA 79 ante. The functions conferred or imposed on the Greater London Authority under or by virtue of the Greater London Authority Act 1999 Pt III (ss 81-140) are functions of the Authority which are exercisable by the Mayor of London acting on behalf of the Authority: s 140(1). Section 140(1) does not apply in relation to any function expressly conferred or imposed on the London Assembly: s 140(2). As to the Mayor of London and the London Assembly see PARAS 81-82 ante. As to the functions of the Greater London Authority see PARA 164 et seq ante.

2 As to the functional bodies see PARAS 213-218 ante.

3 As to the Secretary of State see PARA 12 note 2 ante.

4 See the Local Government Act 1972 s 168(5)(a),(d) (s 168(5) substituted by the Local Government Finance (Repeals, Savings and Consequential Amendments) Order 1990, SI 1990/776, art 8, Sch 3 para 18; Local Government Act 1972 s 168(5)(a) further substituted by the Local Government Finance Act 1992 s 117(1), Sch 3 para 34(2); Local Government Act 1972 s 168(5)(d) added by the Greater London Authority Act 1999 s 109(1)); Local Government Finance Act 1992 s 39(1)(aa) (added by the Greater London Authority Act 1999 s 39(1), (2)); Local Government Finance Act 1992 s 69(1). As to the making of financial returns by local authorities see LOCAL GOVERNMENT vol 29(1) (Reissue) PARA 634.

5 See the Local Government Finance Act 1988 s 139A (as added and amended); and RATING AND COUNCIL TAX vol 39(1B) (Reissue) PARA 3.

6 See the Local Government Finance Act 1992 s 68 (as amended); and RATING AND COUNCIL TAX vol 39(1B) (Reissue) PARA 228. The reference in the text to the Secretary of State's principal functions relating to council tax is a reference to the Secretary of State's functions under Pt I (ss 1-69) (as amended) (see RATING AND COUNCIL TAX) or under the Greater London Authority Act 1999 Pt III (ss 81-140).

7 As to the exercise of the functions of the Mayor see note 1 supra.

8 As to the exercise of the functions of the Assembly see note 1 supra.

9 Greater London Authority Act 1999 s 110(1). The information that may be requested under s 110(1) is such information as may be required for the purpose of any functions exercisable by the Mayor or the Assembly: s 110(3). The information that may be so requested from a functional body includes information which the body has or can reasonably obtain (s 110(4)(a)) and information about the body's plans or proposals relating to the finances or expenditure of the body or of any company in which the body has an interest (s 110(4)(b)), and must be provided in such form and manner, and within such time, as may be specified in the request (s 110(2)). For the meaning of 'company' see PARA 17 note 19 ante. As to the functions of the Greater London Authority see PARA 164 et seq ante.

10 For the meaning of 'notice' see PARA 83 note 10 ante.

11 Greater London Authority Act 1999 s 125(1). The reference in the text to the provisions relating to the revenue accounts and capital finance of the Authority is a reference to Pt III Ch IV (ss 111-126) (see PARAS 241-246 ante). If the information specified in a notice under s 125 is in the possession or under the control of the functional body on which the notice is served, the body must supply the information required in such form and manner, and at such time, as is specified in the notice and, if the notice so requires, the information must be certified (according as is specified in the notice) in one or both of the following ways: (1) by the chief finance officer of the body within the meaning of s 127 (see PARA 250 ante) or by such other person as may be specified in the notice (s 125(2)(a)); and (2) under arrangements made by the Audit Commission for Local Authorities and the National Health Service in England and Wales (s 125(2)(b)). If a functional body fails to comply with s 125(2), the Mayor may decide whether to exercise his powers, and how to perform his functions, under Pt III Ch IV, or whether the body has acted, or is likely to act, in accordance with Pt III Ch IV, on the basis of such assumptions and estimates as he thinks fit (s 125(3)). As to the meaning of 'certified' see PARA 111 note 4 ante. As to the Audit Commission for Local Authorities and the National Health Service in England and Wales see LOCAL GOVERNMENT vol 69 (2009) PARA 744 et seq.

12 Ie under ibid Pt III Ch IV.

13 Ie in accordance with ibid Pt III Ch IV.

14 Ibid s 125(4).

## UPDATE

### **253 Provision of financial information by the Greater London Authority and the functional bodies**

NOTE 11--1999 Act s 125(2)(b) amended: Local Government and Public Involvement in Health Act 2007 Sch 9 para 1(2)(n), Sch 18 Pt 9.

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## **(8) ETHICAL STANDARDS AND MALADMINISTRATION**

### **254. Ethical standards.**

Until a day to be appointed<sup>1</sup> the Secretary of State<sup>2</sup> may issue guidance<sup>3</sup> to the Greater London Authority with respect to ethical standards for:

- 385 (1) the Mayor of London<sup>4</sup>;
- 386 (2) the Assembly members<sup>5</sup>;
- 387 (3) members of the Authority's staff<sup>6</sup>; and
- 388 (4) persons who are not the Mayor of London, Assembly members or members of the Authority's staff<sup>7</sup> who are members of advisory committees or sub-committees of the Assembly<sup>8</sup>,

and in exercising any functions conferred or imposed on him, or made exercisable by him, the Mayor and every Assembly member must have regard to any guidance so issued<sup>9</sup>.

Provision governing the conduct of, and prescribing and enforcing ethical standards for, members and employees of bodies including the Greater London Authority, is made under Part III of the Local Government Act 2000<sup>10</sup>.

1 The Greater London Authority Act 1999 s 66 (see the text and notes *infra*) is repealed by the Local Government Act 2000 s 107, Sch 5 para 34, Sch 6, as from a day to be appointed under s 108(3)(b), (c)(vii). At the date at which this volume states the law no such day had been appointed.

2 As to the Secretary of State see PARA 12 note 2 *ante*.

3 For the meaning of 'guidance' see PARA 96 note 2 *ante*. The matters which may be dealt with in any such guidance include: (1) disclosure and registration of interests (Greater London Authority Act 1999 s 66(2)(a) (prospectively repealed: see note 1 *supra*); (2) the exercise of functions by or on behalf of the Mayor, the Deputy Mayor, any member of the London Assembly, any member of the Authority's staff or any committee or sub-committee in cases where the Mayor, Deputy Mayor, member of the Assembly or member of staff, or a member of the committee or sub-committee, has an interest in the matter in question (s 66(2)(b) (prospectively repealed)); (3) voting in cases where an Assembly member, or any other person who is a member of an advisory committee or sub-committee, has an interest in the matter in question (s 66(2)(c) (prospectively repealed)); (4) the establishment and functions of one or more committees concerned with ethical standards (s 66(2)(d) (prospectively repealed)); and (5) the prescription of model codes of conduct (s 66(2)(e) (prospectively repealed)).

As to the Mayor of London see PARA 81 *ante*. As to the Deputy Mayor see PARA 83 *ante*. As to the London Assembly see PARA 82 *ante*. For the meaning of 'member of staff' in relation to the Greater London Authority see PARA 86 note 5 *ante*. As to the establishment of the Greater London Authority see PARA 79 *ante*. As to the committees and sub-committees of the Assembly see PARAS 146-148, 170-172 *ante*. For the meaning of 'Assembly members' see PARA 82 note 3 *ante*. As to the functions of the Greater London Authority see PARA 164 *et seq ante*.

4 *Ibid* s 66(1)(a) (prospectively repealed: see note 1 *supra*).

5 *Ibid* s 66(1)(b) (prospectively repealed: see note 1 *supra*).

6 *Ibid* s 66(1)(c) (prospectively repealed: see note 1 *supra*).

7 *Ie* persons not falling within *ibid* s 66(1)(a)-(c) (prospectively repealed).

8 Ibid s 66(1)(d) (prospectively repealed: see note 1 supra).

9 Ibid s 66(3) (prospectively repealed: see note 1 supra).

10 See the Local Government Act 2000 Pt III (ss 49-83): see LOCAL GOVERNMENT vol 69 (2009) PARAS 232-284. See also ADMINISTRATIVE LAW vol 1(1) (2001 Reissue) PARAS 50-52.

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/3. THE GREATER LONDON AUTHORITY/(8) ETHICAL STANDARDS AND MALADMINISTRATION/255. Investigation of complaints of maladministration.

## **255. Investigation of complaints of maladministration.**

The Commission for Local Administration in England<sup>1</sup> is empowered to conduct investigations<sup>2</sup> into complaints of maladministration alleged against the Greater London Authority<sup>3</sup>, the London Development Agency<sup>4</sup>, the London Fire and Emergency Planning Authority<sup>5</sup>, the Metropolitan Police Authority<sup>6</sup>, and Transport for London<sup>7</sup>.

1 As to the Commission for Local Administration in England see LOCAL GOVERNMENT vol 69 (2009) PARA 839 et seq. See also ADMINISTRATIVE LAW vol 1(1) (2001 Reissue) PARA 49.

2 See under the Local Government Act 1974 Pt III (ss 23-34) (as amended); see LOCAL GOVERNMENT vol 69 (2009) PARAS 839-866. See also ADMINISTRATIVE LAW vol 1(1) (2001 Reissue) PARAS 46-49.

3 As to the establishment of the Greater London Authority see PARA 79 ante. For these purposes, a reference to the Authority includes a reference to the London Assembly, any committee of the Assembly, and any body or person exercising functions on behalf of the Greater London Authority: Local Government Act 1974 25(4A) (added by the Greater London Authority Act 1999 s 74(1), (3)). As to the Assembly see PARA 82 ante. As to Assembly committees see PARAS 146-148, 170-172 ante. As to the exercise of functions conferred on the Authority see PARAS 164-174 ante.

4 As to the London Development Agency see PARA 215 ante; and TRADE AND INDUSTRY vol 97 (2010) PARA 988 et seq. See also PARA 196 ante.

5 As to the London Fire and Emergency Planning Authority see PARA 217 ante; and FIRE SERVICES.

6 As to the Metropolitan Police Authority see PARA 216 ante; and POLICE vol 36(1) (2007 Reissue) PARAS 147-155.

7 See the Local Government Act 1974 s 25(1) (as amended); and LOCAL GOVERNMENT vol 69 (2009) PARA 853. See also ADMINISTRATIVE LAW vol 1(1) (2001 Reissue) PARA 47. As to Transport for London see PARAS 218 ante, 269 et seq post.



Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/4. TRANSPORT IN LONDON/(1) IN GENERAL/256. Transport in London generally.

## **4. TRANSPORT IN LONDON**

### **(1) IN GENERAL**

#### **256. Transport in London generally.**

Under the Greater London Authority Act 1999, the Mayor of London<sup>1</sup> prepares and publishes a transport strategy<sup>2</sup> for London and he has a general duty to promote safe, integrated, efficient and economic transport facilities and services<sup>3</sup>. The Act established two bodies with transport functions, namely Transport for London<sup>4</sup> and the London Transport Users' Committee<sup>5</sup>. The Act contains provisions relating to road user charging<sup>6</sup>, the workplace parking levy<sup>7</sup>, travel concessions<sup>8</sup> and penalty fares<sup>9</sup>.

There is a considerable amount of legislation relevant to transport issues in London, and this is dealt with elsewhere in this work. This includes provisions relating to railways<sup>10</sup>, waterways<sup>11</sup>, buses<sup>12</sup>, trams<sup>13</sup>, taxis<sup>14</sup>, private hire vehicles<sup>15</sup> and road traffic regulation<sup>16</sup>, and also provisions relating to highways, streets and bridges<sup>17</sup>.

1 As to the Mayor of London see PARA 81 ante.

2 As to the transport strategy see PARAS 263-268 post.

3 As to the general transport duty see PARA 262 post.

4 As to the establishment of Transport for London see PARA 269 post.

5 As to the London Transport Users' Committee see PARAS 322-333 post.

6 As to road user charging see PARAS 334-366 post.

7 As to the workplace parking levy see PARAS 334-337, 367-395 post.

8 As to travel concessions see PARAS 396-407 post.

9 As to penalty fares see PARAS 408-416 post.

10 As to railways in London see PARA 257 post.

11 As to waterways in London see PARA 258 post; and as to inland waterways generally see WATER AND WATERWAYS vol 101 (2009) PARA 713 et seq.

12 See PARA 259 post; and ROAD TRAFFIC vol 40(3) (2007 Reissue) PARA 1230 et seq.

13 See PARA 259 post; and ROAD TRAFFIC vol 40(3) (2007 Reissue) PARA 1532 et seq.

14 See PARA 259 post; and ROAD TRAFFIC vol 40(3) (2007 Reissue) PARA 1477 et seq.

15 See PARA 259 post; and ROAD TRAFFIC vol 40(3) (2007 Reissue) PARA 1500 et seq.

16 See PARA 260 post; and ROAD TRAFFIC vol 40(2) (2007 Reissue) PARA 718 et seq.

17 See HIGHWAYS, STREETS AND BRIDGES.

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/4. TRANSPORT IN LONDON/(1) IN GENERAL/257. Railways in London.

## **257. Railways in London.**

The law relating to railways is dealt with elsewhere in this work<sup>1</sup>. Special provision is made in relation to railways in London<sup>2</sup>. The Greater London Authority Act 1999 establishes Transport for London<sup>3</sup> and makes provision for the abolition of London Regional Transport<sup>4</sup>. Until the transfer of its functions, property, rights and liabilities to Transport for London<sup>5</sup>, London Regional Transport continues to hold responsibilities under the London Regional Transport Act 1984<sup>6</sup> and to operate London Underground.

The Greater London Authority Act 1999 also contains provisions designed to enable the making of public-private partnership agreements<sup>7</sup>. Such agreements are contracts involving the provision, construction, renewal, improvement and maintenance of railways, stations, rolling stock or depots<sup>8</sup>.

1 See PARA 256 et seq ante.

2 See PARA 256 et seq ante.

3 As to the establishment of Transport for London see PARA 269 post.

4 See PARA 269 et seq post. As to London Regional Transport see PARA 271 post. As to the dissolution of London Regional Transport see PARA 277 post.

5 As to the transition from London Regional Transport to Transport for London see PARAS 271-276 post.

6 Repealed.

7 See the Greater London Authority Act 1999 Pt IV Ch VII (ss 210-239) (as amended); and PARA 316 et seq post.

8 See *ibid* s 210; and PARA 316 et seq post.

### **UPDATE**

## **257 Railways in London**

TEXT AND NOTE 7--For provision as to public-private partnership agreements, see PARA 316A.

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/4. TRANSPORT IN LONDON/(1) IN GENERAL/258. Waterways in London.

### **258. Waterways in London.**

The law relating to inland waterways is dealt with elsewhere in this work<sup>1</sup>. In addition to the River Thames, there are several canals in London, and there is legislation that relates specifically to such waterways in London<sup>2</sup>. Transport for London<sup>3</sup> has power to provide facilities for users of waterways<sup>4</sup>. It is also responsible for the Woolwich Ferry<sup>5</sup>.

1 As to inland waterways see WATER AND WATERWAYS vol 101 (2009) PARA 713 et seq.

2 See eg the Canals Protection (London) Act 1898 (which is extended to the whole of Greater London by the London Government Act 1963 s 62(1)).

3 As to the establishment of Transport for London see PARA 269 post.

4 See PARA 312 post. Provision has been made for the transfer of certain rights and obligations relating to landing places: see the Greater London Authority Act 1999 s 258.

5 See the Metropolitan Board of Works (Various Powers) Act 1885 s 16 (as amended); the Greater London Authority Act 1999 s 257; and the Woolwich Ferry Order 2000, SI 2000/1044. As to ferries generally see HIGHWAYS, STREETS AND BRIDGES vol 21 (2004 Reissue) PARA 888 et seq.

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/4. TRANSPORT IN LONDON/(1) IN GENERAL/259. Buses, trams, taxis and private hire vehicles in London.

**259. Buses, trams, taxis and private hire vehicles in London.**

The law relating to buses<sup>1</sup>, trams<sup>2</sup>, taxis<sup>3</sup> and private hire vehicles<sup>4</sup> is dealt with elsewhere in this work.

1 As to local bus services in London see ROAD TRAFFIC vol 40(3) (2007 Reissue) PARA 1230 et seq. As to public passenger vehicles see ROAD TRAFFIC vol 40(3) (2007 Reissue) PARA 1132 et seq.

2 As to trams generally see ROAD TRAFFIC vol 40(3) (2007 Reissue) PARA 1532 et seq.

3 As to taxis in London see ROAD TRAFFIC vol 40(3) (2007 Reissue) PARA 1477 et seq. As to taxis and private hire vehicles generally see ROAD TRAFFIC vol 40(3) (2007 Reissue) PARA 1431 et seq.

4 As to private hire vehicles in London see the Private Hire Vehicles (London) Act 1998; and ROAD TRAFFIC vol 40(3) (2007 Reissue) PARA 1500 et seq.

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/4. TRANSPORT IN LONDON/(1) IN GENERAL/260. Road traffic regulation in London.

## **260. Road traffic regulation in London.**

The law relating to road traffic regulation is dealt with elsewhere in this work<sup>1</sup>. There are some respects in which special provision is made for London<sup>2</sup>. In particular, provision is made in relation to road user charging<sup>3</sup> and the workplace parking levy<sup>4</sup>.

1 As to road traffic regulation generally see ROAD TRAFFIC vol 40(2) (2007 Reissue) PARA 718 et seq.

2 See eg the Road Traffic Regulation Act 1984 ss 6-8 (all as amended) (orders in Greater London similar to traffic regulation orders: see ROAD TRAFFIC vol 40(2) (2007 Reissue) PARAS 747-750); ss 73-75 (as amended) (traffic signs: see ROAD TRAFFIC vol 40(2) (2007 Reissue) PARA 840 et seq); and s 43, Sch 4 (both as amended) (control of off-street parking: see ROAD TRAFFIC vol 40(2) (2007 Reissue) PARA 797 et seq). See also PARA 65 ante.

3 As to road user charging see PARAS 334-366 post.

4 As to the workplace parking levy see PARAS 334-337, 367-395 post.

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/4. TRANSPORT IN LONDON/(1) IN GENERAL/261. Highways, streets and bridges in London.

**261. Highways, streets and bridges in London.**

The law relating to highways, streets and bridges is dealt with elsewhere in this work<sup>1</sup>. Some special provision has been made in relation to highways in London<sup>2</sup>.

1 See HIGHWAYS, STREETS AND BRIDGES.

2 See HIGHWAYS, STREETS AND BRIDGES vol 21 (2004 Reissue) PARA 817 et seq. See also PARA 65 ante.

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/4. TRANSPORT IN LONDON/(2) TRANSPORT STRATEGY/262. The general transport duty.

## **(2) TRANSPORT STRATEGY**

### **262. The general transport duty.**

The Mayor of London<sup>1</sup> must develop and implement policies for the promotion and encouragement of safe, integrated, efficient and economic transport facilities and services<sup>2</sup> to, from and within Greater London<sup>3</sup>. The transport powers of the Greater London Authority<sup>4</sup> must be exercised for the purpose of securing the provision of those transport facilities and services<sup>5</sup>.

1 As to the Mayor of London see PARA 81 ante.

2 The transport facilities and services include facilities and services for pedestrians and are: (1) those required to meet the needs of persons living or working in, or visiting, Greater London; and (2) those required for the transportation of freight: Greater London Authority Act 1999 s 141(3).

3 Ibid s 141(1). As to Greater London see PARA 29 ante.

4 Ie the powers of the Greater London Authority under ibid Pt IV (ss 141-303) (see PARAS 263-416 post); ROAD TRAFFIC vol 40(3) (2007 Reissue) PARAS 1231-1235. As to the Greater London Authority see PARA 79 et seq ante.

5 Ibid s 141(2).

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/4. TRANSPORT IN LONDON/(2) TRANSPORT STRATEGY/263. The transport strategy.

### 263. The transport strategy.

The Mayor of London<sup>1</sup> must prepare<sup>2</sup> and publish a document known as the 'transport strategy'<sup>3</sup>, to which a London borough council<sup>4</sup>, the Common Council of the City of London<sup>5</sup>, and any body or person exercising statutory functions<sup>6</sup> in relation to Greater London or any part of Greater London are to have regard in exercising any function<sup>7</sup>. The strategy must contain the Mayor's transport policies<sup>8</sup>, his proposals for discharging the transport duty of the Greater London Authority<sup>9</sup>, his proposals for the provision of transport which is accessible to persons with mobility problems<sup>10</sup>, and any other proposals which he considers appropriate<sup>11</sup>. Provision is made for local implementation of the transport strategy<sup>12</sup>.

1 As to the Mayor of London see PARA 81 ante.

2 Without prejudice to the Mayor's general duty under the Greater London Authority Act 1999 s 42 to consult in the preparation or revision of his strategies (see PARA 178 ante), in preparing or revising the transport strategy the Mayor must consult the Disabled Persons Transport Advisory Committee (s 142(4)(a)), and such other persons or bodies which represent the interests of persons with mobility problems as he considers it appropriate to consult (s 142(4)(b)). As to the Disabled Persons Transport Advisory Committee see ROAD TRAFFIC vol 40(1) (2007 Reissue) PARA 259.

3 The Mayor's transport strategy was published by the Greater London Authority in July 2001. For the general duties of the Mayor in relation to his strategies see PARA 177 ante. As to consultation in connection with the preparation or revision of strategies see PARA 178 ante; and note 2 supra. As to the publicity and availability of strategies see PARA 179 ante. In the Greater London Authority Act 1999 references to the transport strategy include, except where the context otherwise requires, a reference to the transport strategy as revised: s 142(5).

Where the Secretary of State considers that the transport strategy (or any part of it) is inconsistent with national policies relating to transport, and that the inconsistency is detrimental to any area outside Greater London, he may direct the Mayor to make such revisions of the transport strategy in order to remove the inconsistency as may be specified in the direction: s 143(1). As to the giving of directions see PARA 13 ante. Where the Secretary of State gives the Mayor such a direction, the Mayor must revise the transport strategy in accordance with the direction: s 143(2). As to the Secretary of State see PARA 12 note 2 ante. For the meaning of 'national policies' see PARA 177 note 18 ante. As to Greater London see PARA 29 ante. The matter of a conflict between the content of the transport strategy on the one hand and national policies on the other was considered but not decided in *R (on the application of Transport for London) v London Underground Ltd* [2001] EWHC Admin 637.

4 As to the London boroughs and their councils see PARAS 30, 35-39, 59 et seq ante.

5 As to the Common Council of the City of London see PARA 51 et seq ante.

6 For the meaning of 'statutory function' see PARA 149 note 8 ante.

7 Greater London Authority Act 1999 s 144(1). As to the exercise of functions generally see PARA 164 et seq ante. The Mayor may issue guidance in writing about the implementation of the transport strategy to any council, body or person falling within s 144(1) (s 144(2)), and a council, body or person to whom guidance has been so issued must have regard to the guidance in exercising any function (s 144(3)). The Secretary of State must also have regard to the transport strategy in exercising any functions in relation to the management of roads or traffic in any park in Greater London to which the Parks Regulation Act 1872 applies (see the Parks Regulation (Amendment) Act 1926 ss 1, 3; and OPEN SPACES AND COUNTRYSIDE vol 78 (2010) PARA 561); Greater London Authority Act 1999 s 144(4), (5). No obligation is placed by s 144(1) on the Secretary of State or London Regional Transport (see PARA 271 post) to facilitate the implementation of the transport strategy, so as to prevent London Regional Transport from implementing a PPP agreement which would frustrate the strategy: *R (on the application of Transport for London) v London Underground Ltd* [2001] EWHC Admin 637. As to PPP agreements see PARA 316 et seq post.

8 Greater London Authority Act 1999 s 142(1)(a). The policies referred to in the text are those under s 141(1): see PARA 262 ante.



9 Ibid s 142(1)(b). The duties referred to in the text are the duties of the Greater London Authority under s 141(2): see PARA 262 ante. As to the Greater London Authority see PARA 79 et seq ante.

10 Ibid s 142(2)(a). The transport strategy must also specify a timetable for the implementation of the proposals contained therein by virtue of s 142(2)(a): s 142(2)(b).

11 Ibid s 142(2)(c).

12 See PARAS 264-268 post.

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/4. TRANSPORT IN LONDON/(2) TRANSPORT STRATEGY/264. Local implementation plans prepared by councils.

## **264. Local implementation plans prepared by councils.**

As soon as reasonably practicable after the Mayor of London<sup>1</sup> has published the transport strategy<sup>2</sup>, each London borough council<sup>3</sup> must prepare a local implementation plan<sup>4</sup>, containing its proposals for the implementation of the strategy in its area<sup>5</sup>. Each local implementation plan must include a timetable for implementing the different proposals in the plan<sup>6</sup>, and the date by which all the proposals contained in the plan will be implemented<sup>7</sup>. Each council must submit its plan to the Mayor for his approval<sup>8</sup>, and the Mayor may approve the plan<sup>9</sup> if he considers:

- 389 (1) that the plan is consistent with the transport strategy<sup>10</sup>;
- 390 (2) that the proposals contained in the plan are adequate for the purposes of the implementation of the transport strategy<sup>11</sup>; and
- 391 (3) that the timetable for implementing those proposals, and the date by which those proposals are to be implemented, are adequate for those purposes<sup>12</sup>.

Where it appears to the Mayor that a council has failed to prepare a plan<sup>13</sup> or to submit a plan to him for approval<sup>14</sup>, he may issue to the council a direction<sup>15</sup> requiring the council to do so within such period as the Mayor specifies in the direction<sup>16</sup>, and where the Mayor has issued such a direction, but the council has not complied with it within a reasonable time, the Mayor may prepare a plan on behalf of the council<sup>17</sup>.

1 As to the Mayor of London see PARA 81 ante.

2 Ie under the Greater London Authority Act 1999 s 142: see PARA 262 ante.

3 As to the London boroughs and their councils see PARAS 30, 35-39, 59 et seq ante. For the purposes of the provisions of the Greater London Authority Act 1999 relating to local implementation plans (ie ss 146-151) the Common Council of the City of London is treated as if it were a London borough council: s 145(4). As to the Common Council of the City of London see PARA 51 et seq ante.

The Mayor may issue to any London borough council (or the Common Council) general directions as to the manner in which it is to exercise its functions under ss 146-151 or specific directions as to the manner in which it is to exercise those functions (s 153(1)), and the council must comply with any directions so issued (s 153(4)). As to the giving of directions see PARA 13 ante. Where the Mayor considers that a council has failed to comply with any direction issued by him under s 153, he may exercise on behalf of the council such of the powers of the council as are necessary for the purposes of ensuring that the direction is complied with: s 152(3). Anything done by the Mayor in the exercise of powers conferred on him by virtue of s 152 is treated for all purposes as if it had been done by the council on whose behalf he exercises the powers: s 152(4). Where the Mayor proposes to exercise any of the powers of a council by virtue of s 152 he may direct the council not to exercise those or any other powers, in such circumstances or in relation to such matters, as may be specified in the direction (s 152(5)), and the council must comply with any such direction (s 152(6)). Any reasonable expenses incurred by the Mayor in the exercise of the powers of a council by virtue of s 152 are recoverable by him from the council as a civil debt: s 152(7).

4 In preparing a local implementation plan, each London borough council must consult: (1) the relevant Commissioner (ie, in relation to a plan prepared by the Common Council of the City of London, the Commissioner of Police for the City of London (ibid s 145(5)(a)), and in relation to a plan prepared by a council other than the Common Council, the Commissioner of Police of the Metropolis (s 145(5)(b))) or, if the council considers it appropriate, both Commissioners (s 145(2)(a)); (2) Transport for London (see PARAS 269-321 post) (s 145(2)(b)); (3) such organisations representative of disabled persons as the council considers appropriate (s 145(2)(c)); (4) each other London borough council whose area is, in the opinion of the council preparing the plan, likely to be affected by it (s 145(2)(d)); and (5) any other body or person required to be consulted under s 145 by virtue of a direction given to the council by the Mayor (s 145(2)(e)). Directions issued by the Mayor under s 153(1) (see note 3 supra) may include in particular directions as to the timetable in accordance with

which a plan must be prepared and as to the bodies or persons who must be consulted about a plan: s 153(2) (a), (b). As to the revision of local implementation plans see PARAS 266-267 post.

5 Ibid s 145(1).

6 Ibid s 145(3)(a). As to the implementation of plans see PARA 268 post. Directions issued by the Mayor under s 153(1) (see note 3 supra) may include in particular directions as to the timetable mentioned in s 145(3)(a) (s 153(2)(c)) and as to the action required to be taken to implement the proposals contained in the local implementation plan in accordance with the timetable (s 153(2)(e)) or as to the steps required to be taken to remove the effects of action which is incompatible with such proposals (s 153(2)(f)). For this purpose 'local implementation plan' includes a plan as proposed by a council to be revised and approved by the Mayor under s 146 (as applied by s 149) (s 153(3)(a)), and a plan or revised plan prepared by the Mayor on behalf of a council (s 153(3)(b)).

7 Ibid s 145(3)(b). As to the implementation of plans see PARA 268 post. Directions issued by the Mayor under s 153(1) (see note 3 supra) may include in particular directions as to the date mentioned in s 145(3)(b) (s 153(2)(d)) and as to the action required to be taken to implement the proposals contained in the local implementation plan by that date (s 153(2)(e)) or as to the steps required to be taken to remove the effects of action which is incompatible with such proposals (s 153(2)(f)). For this purpose 'local implementation plan' includes a plan as proposed by a council to be revised and approved by the Mayor under s 146 (as applied by s 149) (s 153(3)(a)), and a plan or revised plan prepared by the Mayor on behalf of a council (s 153(3)(b)).

8 Ibid s 146(1).

9 Ibid s 146(2). Where the Mayor refuses to approve a plan under s 146(2), the council which submitted the plan must prepare a new plan and submit it to the Mayor under s 146(1), unless the Mayor notifies the council that he intends to exercise his powers to prepare a plan on behalf of the council under s 147(4) (see PARA 265 post): s 147(3). For the meaning of 'notify' see PARA 83 note 10 ante.

10 Ibid s 146(3)(a).

11 Ibid s 146(3)(b).

12 Ibid s 146(3)(c).

13 Ibid s 147(1)(a). The reference in the text to failure to prepare a plan is a reference to failure to prepare a plan under s 145 (see the text and notes 1-7 supra).

14 Ibid s 147(1)(b). The reference in the text to failure to submit a plan is a reference to failure to submit a plan under s 146 (see the text and notes 8-12 supra).

15 Ie under ibid s 153. As to the giving of directions see PARA 13 ante.

16 Ibid s 147(1).

17 Ibid s 147(2). As to the preparation of local implementation plans by the Mayor see PARA 265 post.

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/4. TRANSPORT IN LONDON/(2) TRANSPORT STRATEGY/265. Power of Mayor of London to prepare local implementation plans on behalf of councils.

**265. Power of Mayor of London to prepare local implementation plans on behalf of councils.**

The Mayor of London<sup>1</sup> may prepare a local implementation plan<sup>2</sup> on behalf of a London borough council if:

- 392 (1) the Mayor has issued a direction<sup>3</sup> requiring the council to prepare<sup>4</sup> or submit<sup>5</sup> a plan within such period as the Mayor specifies in the direction<sup>6</sup> but the council has not complied with it within a reasonable time<sup>7</sup>; or
- 393 (2) the Mayor refuses to approve a plan<sup>8</sup> and has served a notice<sup>9</sup> on the council who prepared the plan that he intends to exercise his own powers to prepare a plan<sup>10</sup>.

A local implementation plan prepared by the Mayor must include the Mayor's proposals for the implementation of the transport strategy in the council's area<sup>11</sup>, a timetable for implementing the different proposals in the plan<sup>12</sup>, and the date by which all the proposals contained in the plan will be implemented<sup>13</sup>. Where the Mayor prepares a plan on behalf of a council, he may recover from the council as a civil debt any reasonable expenses incurred by him in preparing it<sup>14</sup>.

1 As to the Mayor of London see PARA 81 ante.

2 As to the preparation of local implementation plans by London borough councils see PARA 264 ante. For these purposes the Common Council of the City of London is treated as if it were a London borough council: see PARA 264 note 3 ante. As to the London boroughs and their councils see PARAS 30, 35-39, 59 et seq ante. As to the Common Council of the City of London see PARA 51 et seq ante.

Where the Mayor prepares a local implementation plan on behalf of a London borough council he must, in preparing the plan, consult: (1) the council on whose behalf he is preparing the plan (Greater London Authority Act 1999 s 147(5)(a)); (2) the relevant Commissioner (ie, in relation to a plan prepared on behalf of the Common Council, the Commissioner of Police for the City of London (s 147(8)(a)), and in relation to a plan prepared on behalf of a council other than the Common Council, the Commissioner of Police of the Metropolis (s 147(8)(b))) or, if the Mayor considers it appropriate, both Commissioners (s 147(5)(b)); (3) Transport for London (see PARAS 269-321 post) (s 147(5)(c)); (4) such organisations representative of disabled persons as the Mayor considers appropriate (s 147(5)(d)); and (5) each other London borough council whose area is in the opinion of the Mayor likely to be affected by the plan (s 147(5)(e)).

As to the revision of local implementation plans see PARAS 266-267 post. As to the implementation of plans see PARA 268 post.

3 Ie under ibid s 153. For general provisions as to directions see PARA 264 note 3 ante.

4 Ie in accordance with the requirements of ibid s 145 (see PARA 264 ante).

5 Ie in accordance with the requirements of ibid s 146 (see PARA 264 ante).

6 Ie in accordance with ibid s 147(1) (see PARA 264 ante).

7 Ibid s 147(2).

8 Ie under ibid s 146 (see PARA 264 ante).

9 Ie a notice under ibid s 147(3) (see PARA 264 note 9 ante). For the meaning of 'notice' see PARA 83 note 10 ante.

10 Ibid s 147(4). The reference in the text to a notice that the Mayor's own powers to prepare a plan is a reference to the Mayor's powers under s 147(4): s 147(3), (4).

11 Ibid s 145(1). The matters referred to in the text to notes 12-13 *infra* are the matters required to be contained or included in the plan by a council: s 147(6). See PARA 264 notes 5-7 *ante*.

12 Ibid s 145(3)(a). See note 11 *supra*. As to the implementation of plans see PARA 268 *post*. Directions issued by the Mayor under s 153(1) (see PARA 264 note 3 *ante*) may include in particular directions as to the timetable mentioned in s 145(3)(a) (as applied by s 147(6)) (s 153(2)(c)) and as to the action required to be taken to implement the proposals contained in the local implementation plan in accordance with that timetable (s 153(2)(e)) or as to the steps required to be taken to remove the effects of action which is incompatible with such proposals (s 153(2)(f)). For this purpose 'local implementation plan' includes a plan as proposed by a council to be revised and approved by the Mayor under s 146 (as applied by s 149) (s 153(3)(a)), and a plan or revised plan prepared by the Mayor on behalf of a council (s 153(3)(b)).

13 Ibid s 145(3)(b). See note 11 *supra*. As to the implementation of plans see PARA 268 *post*. Directions issued by the Mayor under s 153(1) (see PARA 264 note 3 *ante*) may include in particular directions as to the date referred to in s 145(3)(b) (as applied by s 147(6)) (s 153(2)(d)) and as to the action required to be taken to implement the proposals contained in the local implementation plan by that date (s 153(2)(e)) or as to the steps required to be taken to remove the effects of action which is incompatible with such proposals (s 153(2)(f)). For this purpose 'local implementation plan' includes a plan as proposed by a council to be revised and approved by the Mayor under s 146 (as applied by s 149) (s 153(3)(a)), and a plan or revised plan prepared by the Mayor on behalf of a council (s 153(3)(b)).

14 Ibid s 147(7).

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/4. TRANSPORT IN LONDON/(2) TRANSPORT STRATEGY/266. Revision of local implementation plans prepared by councils.

## **266. Revision of local implementation plans prepared by councils.**

A London borough council<sup>1</sup> may at any time prepare such revisions as it considers appropriate to its local implementation plan<sup>2</sup>. Where the Mayor of London<sup>3</sup> revises the transport strategy<sup>4</sup>, each council must as soon as reasonably practicable after the Mayor has published the strategy as revised prepare such revisions to the council's plan as it considers are necessary in order to implement that strategy in its area<sup>5</sup>. Each local implementation plan as proposed to be revised must include the council's proposals for the implementation of the transport strategy in its area<sup>6</sup>, a timetable for implementing the different proposals in the plan<sup>7</sup>, and the date by which all the proposals contained in the plan will be implemented<sup>8</sup>.

Each council must submit its plan as proposed to be revised to the Mayor for his approval<sup>9</sup>, and the Mayor may approve the plan as proposed to be revised<sup>10</sup> if he considers:

- 394 (1) that the plan as proposed to be revised is consistent with the transport strategy<sup>11</sup>;
- 395 (2) that the proposals contained in the plan as proposed to be revised are adequate for the purposes of the implementation of the transport strategy<sup>12</sup>; and
- 396 (3) that the timetable for implementing those proposals, and the date by which those proposals are to be implemented, are adequate for those purposes<sup>13</sup>.

1 As to the London boroughs and their councils see PARAS 30, 35-39, 59 et seq ante. For these purposes the Common Council of the City of London is treated as if it were a London borough council: see PARA 264 note 3 ante. As to the Common Council of the City of London see PARA 51 et seq ante. The Mayor may issue to any London borough council (or the Common Council) general directions as to the manner in which it is to exercise its functions under ss 146-151, or specific directions as to the manner in which it is to exercise those functions and the council must comply with any directions so issued: see the Greater London Authority Act 1999 s 153(1), (4); and PARA 264 note 3 ante. Such directions may include in particular directions as to the timetable in accordance with which revisions to a plan must be prepared: s 153(2)(a). As to the giving of directions see PARA 13 ante.

2 Ibid s 148(1). For the purposes of s 148, the 'local implementation plan', in relation to any London borough council, means whichever of:

- 73 (1) a plan prepared by the council and approved by the Mayor under s 146 (s 148(4)(a));
- 74 (2) a plan, as proposed by the council to be revised, approved by the Mayor under s 146 (s 148(4)(b)); and
- 75 (3) a plan or revised plan prepared by the Mayor on behalf of the council (s 148(4)(c)),

has been most recently approved, or as the case may be, prepared, by the Mayor (s 148(4)). As to the preparation of plans by councils under s 146 see PARA 264 ante. As to the preparation of plans on behalf of councils see PARA 265 ante.

In preparing any revisions under s 148 each council must consult: (a) the relevant Commissioner (ie, in relation to revisions prepared by the Common Council of the City of London, the Commissioner of Police for the City of London (ss 145(5)(a), 149(1)), and in relation to revisions prepared by a council other than the Common Council, the Commissioner of Police of the Metropolis (ss 145(5)(b), 149(1)) or, if the council considers it appropriate, both Commissioners (ss 145(2)(a), 149(1)); (b) Transport for London (see PARAS 269-321 post) (ss 145(2)(b), 149(1)); (c) such organisations representative of disabled persons as the council considers appropriate (ss 145(2)(c), 149(1)); (d) each other London borough council whose area is, in the opinion of the council preparing the revision, likely to be affected by it (ss 145(2)(d), 149(1)); and (e) any other body or person required to be consulted under s 145 (see PARA 264 ante) by virtue of a direction given to the council by the Mayor (ss 145(2)(e), 149(1)). Directions issued by the Mayor under s 153(1) (see PARA 264 note 3 ante) may

include in particular directions as to the bodies or persons who must be consulted about revisions to a plan: s 153(2)(b). As to the implementation of revised plans see PARA 268 post.

3 As to the Mayor of London see PARA 81 ante.

4 le under the Greater London Authority Act 1999 s 41(2) (see PARA 177 ante).

5 Ibid s 148(2). Where a council considers that no revisions are required to be prepared under s 148(2) above the council must notify the Mayor: s 148(3). For the meaning of 'notify' see PARA 83 note 10 ante.

6 Ibid s 145(1). The matters referred to in the text to notes 7-8 infra are the matters required to be contained or included in the original plan: s 149(2). See PARA 264 notes 5-7 ante.

7 Ibid s 145(3)(a). See note 6 supra. As to the implementation of plans see PARA 268 post. Directions issued by the Mayor under s 153(1) (see note 1 supra) may include in particular directions as to the timetable mentioned in s 145(3)(a) (as applied by s 149(2)) (s 153(2)(c)) and as to the action required to be taken to implement the proposals contained in the local implementation plan in accordance with that timetable (s 153(2)(e)) or as to the steps required to be taken to remove the effects of action which is incompatible with such proposals (s 153(2)(f)). For this purpose 'local implementation plan' includes a plan as proposed by a council to be revised and approved by the Mayor under s 146 (as applied by s 149) (s 153(3)(a)), and a plan or revised plan prepared by the Mayor on behalf of a council (s 153(3)(b)).

8 Ibid s 145(3)(b). See note 6 supra. As to the implementation of plans see PARA 268 post. Directions issued by the Mayor under s 153(1) (see note 1 supra) may include in particular directions as to the timetable mentioned in s 145(3)(b) (as applied by s 149(2)) (s 153(2)(d)) and as to the action required to be taken to implement the proposals contained in the local implementation plan by that date (s 153(2)(e)) or as to the steps required to be taken to remove the effects of action which is incompatible with such proposals (s 153(2)(f)) (for this purpose 'local implementation plan' includes a plan as proposed by a council to be revised and approved by the Mayor under s 146 (as applied by s 149) (s 153(3)(a)) and a plan or revised plan prepared by the Mayor on behalf of a council (s 153(3)(b))).

9 Ibid ss 146(1), 149(3).

10 Ibid s 146(2), 149(3). Where the Mayor refuses to approve a plan as proposed to be revised under s 146(2) (as applied by s 149(3)), the council which submitted the plan as proposed to be revised must prepare new revisions and submit to the Mayor under s 146(1) (as applied by s 149(3)) a new local implementation plan as proposed to be revised, unless the Mayor notifies the council that he intends to exercise his powers to prepare a revised plan on behalf of the council under s 150(4) (see PARA 267 post): s 150(3). For the meaning of 'notify' see PARA 83 note 10 ante.

11 Ibid s 146(3)(a), 149(3).

12 Ibid s 146(3)(b), 149(3).

13 Ibid s 146(3)(c), 149(3).

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/4. TRANSPORT IN LONDON/(2) TRANSPORT STRATEGY/267. Power of Mayor of London to revise local implementation plans on behalf of councils.

## **267. Power of Mayor of London to revise local implementation plans on behalf of councils.**

The Mayor of London<sup>1</sup> may revise a local implementation plan<sup>2</sup> on behalf of a London borough council if:

- 397 (1) the Mayor has published the transport strategy<sup>3</sup> as revised but, it having appeared to the Mayor that a council has failed to prepare such revisions to its plan<sup>4</sup>, or to submit to him for approval such a plan as proposed to be revised<sup>5</sup>, as the Mayor considers necessary in order to implement in the council's area the strategy as revised, he has issued a direction<sup>6</sup> requiring the council to do so within such period as he has specified in the direction<sup>7</sup> but the council has not complied with it within a reasonable time<sup>8</sup>; or
- 398 (2) the Mayor refuses to approve a plan as proposed to be revised<sup>9</sup> and has served a notice<sup>10</sup> on the council who prepared the plan that he intends to exercise his own powers to prepare a revised plan<sup>11</sup>.

A revised local implementation plan prepared by the Mayor must include the Mayor's proposals for the implementation of the transport strategy in the council's area<sup>12</sup>, a timetable for implementing the different proposals in the plan<sup>13</sup>, and the date by which all the proposals contained in the plan will be implemented<sup>14</sup>. Where the Mayor prepares a revised plan on behalf of a council, he may recover from the council as a civil debt any reasonable expenses incurred by him in preparing it<sup>15</sup>.

1 As to the Mayor of London see PARA 81 ante.

2 As to the preparation of local implementation plans see PARAS 264-265 ante. As to the revision of plans by London borough councils see PARA 266 ante. As to the implementation of revised plans see PARA 268 post. For these purposes the Common Council of the City of London is treated as if it were a London borough council: see PARA 264 note 3 ante. As to the London boroughs and their councils see PARAS 30, 35-39, 59 et seq ante. As to the Common Council of the City of London see PARA 51 et seq ante.

Where the Mayor revises a local implementation plan on behalf of a London borough council he must in preparing the revised plan consult: (a) the council on whose behalf he is revising the plan (Greater London Authority Act 1999 ss 147(5)(a), 150(5)); (b) the relevant Commissioner (ie, in relation to a revised plan prepared on behalf of the Common Council, the Commissioner of Police for the City of London (ss 147(8)(a), 150(5)), and in relation to a revised plan prepared on behalf of a council other than the Common Council, the Commissioner of Police of the Metropolis (ss 147(8)(b), 150(5))) or, if the Mayor considers it appropriate, both Commissioners (ss 147(5)(b), 150(5)), (c) Transport for London (see PARAS 269-321 post) (ss 147(5)(c), 150(5)); (d) such organisations representative of disabled persons as the Mayor considers appropriate (ss 147(5)(d), 150(5)); and (e) each other London borough council whose area is in the opinion of the Mayor likely to be affected by the revised plan (ss 147(5)(e), 150(5)).

3 As to the preparation of the transport strategy see PARA 263 ante.

4 Ibid s 150(1)(a). The reference in the text to the preparation of revisions is a reference to the preparation of revisions to a council's plan under s 148 (see PARA 266 ante).

5 Ibid s 150(1)(b). The reference in the text to the submission of a plan is a reference to the submission of a plan proposed to be revised under s 148 (see PARA 266 ante).

6 Ie under ibid s 153. As to the giving of directions see PARA 264 note 3 ante.



7 le in accordance with *ibid* s 150(1).

8 *Ibid* s 150(2).

9 le under *ibid* s 146(2) as applied by s 149(3) (see PARA 266 note 11 ante).

10 le a notice under *ibid* s 150(3) (see PARA 266 note 11 ante). For the meaning of 'notice' see PARA 83 note 10 ante.

11 *Ibid* s 150(4). The reference in the text to a notice that the Mayor's own powers to prepare a revised plan is a reference to the Mayor's powers under s 150(4).

12 *Ibid* s 145(1). The matters referred to in the text and notes 13-14 *infra* are the matters required to be contained or included in a council's original plan: s 150(6). See PARA 264 notes 5-7 ante.

13 *Ibid* s 145(3)(a). See note 12 *supra*. As to the implementation of plans see PARA 268 post. Directions issued by the Mayor under s 153(1) (see PARA 264 note 3 ante) may include in particular directions as to the timetable mentioned in s 145(3)(a) (as applied by s 150(6)) (s 153(2)(c)) and as to the action required to be taken to implement the proposals contained in the local implementation plan in accordance with that timetable (s 153(2)(e)) or as to the steps required to be taken to remove the effects of action which is incompatible with such proposals (s 153(2)(f)). For this purpose 'local implementation plan' includes a plan as proposed by a council to be revised and approved by the Mayor under s 146 (as applied by s 149) (s 153(3)(a)), and a plan or revised plan prepared by the Mayor on behalf of a council (s 153(3)(b)).

14 *Ibid* s 145(3)(b). As to the implementation of plans see PARA 268 post. Directions issued by the Mayor under s 153(1) (see PARA 264 note 3 ante) may include in particular directions as to the date mentioned in s 145(3)(b) (as applied by s 150(6)) (s 153(2)(d)) and as to the action required to be taken to implement the proposals contained in the local implementation plan by that date (s 153(2)(e)) or as to the steps required to be taken to remove the effects of action which is incompatible with such proposals (s 153(2)(f)). For this purpose 'local implementation plan' includes a plan as proposed by a council to be revised and approved by the Mayor under s 146 (as applied by s 149) (s 153(3)(a)), and a plan or revised plan prepared by the Mayor on behalf of a council (s 153(3)(b)).

15 *Ibid* s 150(7).

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## **268. Implementation of local implementation plans.**

Where the Mayor of London<sup>1</sup> has approved a local implementation plan<sup>2</sup>, or a local implementation plan as proposed to be revised<sup>3</sup>, or where the Mayor has prepared a plan<sup>4</sup> or a revised plan<sup>5</sup> on behalf of a London borough council, the council which submitted the plan<sup>6</sup> or the revised plan<sup>7</sup>, or, as the case may be, the council on whose behalf the Mayor has prepared<sup>8</sup> or revised<sup>9</sup> the plan, must implement the proposals contained in the plan in accordance with the timetable<sup>10</sup>, and must implement all such proposals by the specified date<sup>11</sup>.

Where the Mayor considers that a council has failed, or is likely to fail, satisfactorily to implement any proposal contained in a plan<sup>12</sup>, or that such a council has failed, or is likely to fail, to implement all such proposals<sup>13</sup>, he may, for the purposes of implementing the proposals contained in the plan, exercise on behalf of the council the powers that the council has in connection with the implementation of those proposals<sup>14</sup>.

1 As to the Mayor of London see PARA 81 ante.

2 As to the preparation of local implementation plans by London borough councils and the approval of such plans by the Mayor see PARA 264 ante. For these purposes the Common Council of the City of London is treated as if it were a London borough council: see PARA 264 note 3 ante. As to the London boroughs and their councils see PARAS 30, 35-39, 59 et seq ante. As to the Common Council of the City of London see PARA 51 et seq ante.

3 As to the revision of plans by councils and the approval of such revisions by the Mayor see PARA 266 ante.

4 Ie under the Greater London Authority Act 1999 s 147 (see PARA 265 ante).

5 Ie under ibid s 150 (see PARA 267 ante).

6 Ie under ibid s 146(1) (see PARA 264 ante).

7 Ie under ibid s 146(1) applied by s 149(3) (see PARA 266 ante).

8 Ie under ibid s 147 (see PARA 265 ante).

9 Ie under ibid s 150 applied by s 149(3) (see PARA 267 ante).

10 Ibid s 151(1)(a), (2). The reference in the text to the timetable is a reference to the timetable included by virtue of:

76 (1) in the case of a plan prepared by a council, s 145(3)(a) (see PARA 264 note 6 ante);

77 (2) in the case of a plan revised by a council, s 145(3)(a) as applied by s 149(2) (see PARA 266 note 7 ante);

78 (3) in the case of a plan prepared by the Mayor, s 145(3)(a) as applied by s 147(6) (see PARA 265 note 12 ante); or

79 (4) in the case of a plan revised by the Mayor, s 145(3)(a) as applied by s 150(6) (see PARA 267 note 13 ante).

The Mayor may issue to any council general directions as to the manner in which it is to exercise its functions under ss 146-151 or specific directions as to the manner in which it is to exercise those functions and the council must comply with any directions so issued: see s 153(1), (4); and PARA 264 note 3 ante. Such directions may include in particular directions as to the action required to be taken to implement the proposals contained in the local implementation plan in accordance with the timetable referred to above or by the date referred to in the text and note 11 infra (s 153(2)(e)) or as to the steps required to be taken to remove the effects of action which is incompatible with such proposals (s 153(2)(f)). For this purpose 'local implementation plan' includes a plan as proposed by a council to be revised and approved by the Mayor under s 146 (as applied by s 149) (see

PARA 266 ante) (s 153(3)(a)), and a plan or revised plan prepared by the Mayor on behalf of a council (see PARAS 265, 267 ante) (s 153(3)(b)).

11 Ibid s 151(1)(b), (2). The reference in the text to the specified date is a reference to the date included by virtue of:

- 80 (1) in the case of a plan prepared by a council, s 145(3)(b) (see PARA 264 note 7 ante);
- 81 (2) in the case of a plan revised by a council, s 145(3)(b) as applied by s 149(2) (see PARA 266 note 8 ante);
- 82 (3) in the case of a plan prepared by the Mayor, s 145(3)(b) as applied by s 147(6) (see PARA 265 note 13 ante); or
- 83 (4) in the case of a plan revised by the Mayor, s 145(3)(b) as applied by s 150(6) (see PARA 267 note 14 ante).

See also note 12 infra.

12 Ibid s 152(1)(a). The reference in the text to the implementation of proposals is a reference to the implementation of proposals as required by s 151(1)(a) (see the text and notes supra). Section 152(1) applies in relation to a local implementation plan, as proposed to be revised, approved by the Mayor under s 146 (see PARA 266 ante) as it applies to a local implementation plan approved by the Mayor under s 146 (see PARA 264 ante): s 152(2).

13 Ibid s 152(1)(b). See note 12 supra. The reference in the text to the implementation of proposals is a reference to the implementation of proposals by the specified date as required by s 151(1)(b) (see the text and notes 1-12 supra).

14 Ibid s 152(1). See note 12 supra. Anything done by the Mayor in the exercise of powers conferred on him by virtue s 152 is treated for all purposes as if it had been done by the council on whose behalf he exercises the powers: s 152(4). Where the Mayor proposes to exercise any of the powers of a council by virtue of s 152 he may direct the council not to exercise those or any other powers, in such circumstances or in relation to such matters, as may be specified in the direction (s 152(5)), and the council must comply with any such direction (s 152(6)). Any reasonable expenses incurred by the Mayor in the exercise of the powers of a council by virtue of s 152 are recoverable by him from the council as a civil debt: s 152(7).

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### **(3) TRANSPORT FOR LONDON**

#### **(i) Establishment of Transport for London**

##### **269. Introduction.**

London public transport was embodied as a separate and unified administrative entity with the establishment of the London Passenger Transport Board<sup>1</sup>. The board's undertaking was transferred to the British Transport Commission<sup>2</sup>, and subsequently to the London Transport Board<sup>3</sup>. This body was in turn replaced by the London Transport Executive<sup>4</sup>, which later became London Regional Transport<sup>5</sup>. The Greater London Authority Act 1999 makes provision for the abolition of London Regional Transport<sup>6</sup> and provides for the transfer in stages of its functions, property, rights and liabilities<sup>7</sup> to a new body known as Transport for London<sup>8</sup>.

1 See the London Passenger Transport Act 1933.

2 See the Transport Act 1947 ss 12-14 (repealed).

3 See pursuant to the Transport Act 1962 s 1 (repealed).

4 See the Transport (London) Act 1969 ss 1, 4 (repealed).

5 See the London Regional Transport Act 1984 s 1 (prospectively repealed by the Greater London Authority Act 1999 s 423, Sch 34 Pt II).

6 As to the dissolution of London Regional Transport see PARA 277 post.

7 See PARAS 271-276 post.

8 As to the establishment of Transport for London see PARA 270 post.

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## **270. Establishment.**

The Greater London Authority Act 1999 established a body corporate known as Transport for London<sup>1</sup>. Transport for London has the functions conferred or imposed on it by the Greater London Authority Act 1999, or made exercisable by it under that Act<sup>2</sup>. Transport for London must exercise its functions:

- 399 (1) in accordance with such guidance<sup>3</sup> or directions as may be issued to it<sup>4</sup> by the Mayor of London<sup>5</sup>;
- 400 (2) for the purpose of facilitating the discharge by the Greater London Authority<sup>6</sup> of its general transport duties<sup>7</sup>; and
- 401 (3) for the purpose of securing or facilitating the implementation of the transport strategy<sup>8</sup>.

Provision is made with respect to the status, capacity, membership, staff and proceedings of Transport for London<sup>9</sup>.

1 See the Greater London Authority Act 1999 s 154(1). Transport for London is often referred to by the letters TfL.

2 Ibid s 154(2). Any reference in the Greater London Authority Act 1999 to the functions of Transport for London includes a reference to any functions made exercisable by it under the Greater London Authority Act 1999: s 154(2).

3 For the meaning of 'guidance' see PARA 96 note 2 ante.

4 Ie under the Greater London Authority Act 1999 s 155(1): see PARA 286 post. As to the giving of directions see PARA 13 ante.

5 Ibid s 154(3)(a). As to the Mayor of London see PARA 81 ante.

6 As to the Greater London Authority see PARA 79 et seq ante.

7 Greater London Authority Act 1999 s 154(3)(b). As to the general transport duties see s 141(1), (2); and PARA 262 ante.

8 Ibid s 154(3)(c). As to the transport strategy see PARA 263 ante.

9 See ibid s 154(4), Sch 10; and PARAS 278-284 post. As to preliminary standing orders and financial arrangements see the Transport for London (Preliminary Arrangements) Order 2000, SI 2000/1045.

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/4. TRANSPORT IN LONDON/(3) TRANSPORT FOR LONDON/(ii) The Transition from London Regional Transport to Transport for London/271. London Regional Transport.

## **(ii) The Transition from London Regional Transport to Transport for London**

### **271. London Regional Transport.**

The London Regional Transport Act 1984 provided for the London Transport Executive to continue in existence under the name of London Regional Transport<sup>1</sup>. London Regional Transport is a statutory corporation with members appointed by the Secretary of State<sup>2</sup>.

The Greater London Authority Act 1999 provides for the abolition of London Regional Transport<sup>3</sup> and the transfer of its property, rights and liabilities to Transport for London<sup>4</sup>. Provision is made, however, for London Regional Transport to continue to exist for an interim period after the coming into being of Transport for London<sup>5</sup>. At the date at which this volume states the law, London Underground Ltd remains a subsidiary of London Regional Transport<sup>6</sup>.

Provision has been made by order for the Mayor of London<sup>7</sup> to exercise powers in connection with the level of fares on London Regional Transport services and concessionary fare schemes<sup>8</sup>.

1 See the London Regional Transport Act 1984 s 1(2) (prospectively repealed by the Greater London Authority Act 1999 s 423, Sch 34). As to London Regional Transport see the London Regional Transport Act 1984; and PARA 256 et seq ante. As to the Secretary of State see PARA 12 note 2 ante.

2 See *ibid* s 1(3), Sch 1 (both prospectively repealed by the Greater London Authority Act 1999 Sch 34).

3 See the Greater London Authority Act 1999 s 302; and PARA 277 post. The Greater London Authority Act 1999 also provides for the repeal of the London Regional Transport Act 1984: see the Greater London Authority Act 1999 s 423, Sch 34.

4 See *ibid* s 297; and PARA 272 post. As to the establishment of Transport for London see PARA 270 ante. For special provision exempting from stamp duties certain transfers of property, rights and liabilities between London Regional Transport, its subsidiaries and Ministers of the Crown preparatory to any provision to be made under the Greater London Authority Act 1999, see s 417(1)-(3), (5).

5 See PARAS 272-277 post.

6 As to the establishment of subsidiaries by London Regional Transport see the London Regional Transport Act 1984 s 4.

7 As to the Mayor of London see PARA 81 ante.

8 See the London Regional Transport (Transitional Modifications) Order 2000, SI 2000/1504.

## **UPDATE**

### **271 London Regional Transport**

TEXT AND NOTES 7, 8--SI 2000/1505 revoked: SI 2003/1615.

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## **272. Transfers of property, rights and liabilities.**

The Secretary of State<sup>1</sup> must from time to time prepare programmes for the transfer to Transport for London<sup>2</sup> of property, rights and liabilities of London Regional Transport<sup>3</sup> for the purpose of enabling Transport for London to perform its functions as they become exercisable<sup>4</sup>, or in preparation for the dissolution of London Regional Transport<sup>5</sup>.

Any powers conferred by Part XII of the Greater London Authority Act 1999<sup>6</sup> are exercisable for the purpose of implementing any transfer programme<sup>7</sup>.

A transfer programme may include plans relating to:

- 402 (1) the transfer of rights and liabilities under contracts of employment<sup>8</sup>;
- 403 (2) the provision of pensions<sup>9</sup>;
- 404 (3) the apportionment of any property, rights or liabilities<sup>10</sup>;
- 405 (4) the creation of rights or liabilities<sup>11</sup>;
- 406 (5) the transfer of statutory functions<sup>12</sup>;
- 407 (6) the exercise of any other powers under Part XII of the Greater London Authority Act 1999<sup>13</sup>.

A transfer programme may provide for different property, rights or liabilities to be transferred on different days<sup>14</sup>.

To the extent that a transfer programme has not been implemented, it may be varied or replaced by another such programme<sup>15</sup>.

1 As to the Secretary of State see PARA 12 note 2 ante.

2 As to the establishment of Transport for London see PARA 270 ante. For the purposes of the Greater London Authority Act 1999 Pt IV Ch XVI (ss 297-303) (partially in force) 'transfer programme' means a programme under s 297(1): see s 297(1).

3 As to London Regional Transport see PARA 271 ante.

4 Greater London Authority Act 1999 s 297(1)(a). As to the functions of Transport for London see PARA 287 et seq post.

5 Ibid s 297(1)(b). As to the dissolution of London Regional Transport see PARA 277 post. Special taxation provisions apply where the property, rights and liabilities are transferred from London Regional Transport to Transport for London: see s 419(4), Sch 33 Pt I.

6 Ie ibid Pt XII (ss 405-425) (as amended) (supplementary provisions).

7 Ibid s 297(2).

8 Ibid s 297(3)(a).

9 Ibid s 297(3)(b). For the meaning of 'pensions' see PARA 20 note 3 ante; definition applied by s 297(3)(b).

10 Ibid s 297(3)(c).

11 Ibid s 297(3)(d).

12 Ibid s 297(3)(e). For the meaning of 'statutory functions' see PARA 149 note 8 ante.

13 Ibid s 297(3)(f).

14 Ibid s 297(4).

15 Ibid s 297(5).



Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/4. TRANSPORT IN LONDON/(3) TRANSPORT FOR LONDON/(ii) The Transition from London Regional Transport to Transport for London/273. Functions during the transitional period.

### **273. Functions during the transitional period.**

London Regional Transport<sup>1</sup> is under a duty to do all such things as it considers appropriate for any transitional purpose<sup>2</sup>. In discharging their functions during the transitional period<sup>3</sup> it is the duty of the Mayor of London<sup>4</sup>, London Regional Transport and Transport for London to consult and co-operate with each other for any transitional purpose<sup>5</sup>. London Regional Transport and Transport for London must each provide to the other such information as may reasonably be required by that other for the purpose of discharging any of its functions during the transitional period<sup>6</sup>. London Regional Transport and Transport for London each has power to enter into arrangements with the other for:

- 408 (1) the provision by the one for the other of administrative, technical or professional services or of passenger transport services<sup>7</sup>;
- 409 (2) the one to make available for use by the other, or for shared use by each of them, any land, equipment or other property<sup>8</sup>;
- 410 (3) the one to place any of its officers or other members of staff at the disposal of the other, for the purposes of its functions<sup>9</sup>;
- 411 (4) the discharge by the one of any functions of the other on its behalf<sup>10</sup>.

Arrangements entered into under heads (1) to (4) above may be on such terms as may be agreed between London Regional Transport and Transport for London<sup>11</sup>.

1 As to London Regional Transport see PARA 271 ante.

2 Greater London Authority Act 1999 s 298(2). London Regional Transport is to be taken at any time before the coming into force of s 298 to have had power to do all such things: see s 298(2). The provisions of s 298(1), (2) were brought into force on 12 January 2000 by virtue of the Greater London Authority Act 1999 (Commencement No 3 and Transitional Finance Provisions) Order 1999, SI 1999/3434, art 2; and the provisions of the Greater London Authority Act 1999 s 298(3)-(9) were brought into force on 3 July 2000 by virtue of the Greater London Authority Act 1999 (Commencement No 4 and Adaptation) Order 2000, SI 2000/801, art 2(2)(c), Schedule Pt 3.

'Transitional purpose' means the purpose of:

- 84 (1) facilitating the securing and carrying into effect of PPP agreements under the Greater London Authority Act 1999 Pt IV Ch VII (ss 210-239) (as amended) (partially in force) (see PARA 316 et seq post);
- 85 (2) facilitating the transfer of property, rights or liabilities of London Regional Transport to Transport for London (s 298(1)(b));
- 86 (3) facilitating the transfer of functions, property, rights or liabilities to Transport for London from any other body or person from whom they are or may be so transferred under or by virtue of the Greater London Authority Act 1999 (s 298(1)(c));
- 87 (4) facilitating the exercise by Transport for London of any functions so transferred (s 298(1)(d)); or
- 88 (5) securing that public passenger transport services continue to be provided without disruption (s 298(1)(e)).

As to the establishment of Transport for London see PARA 270 ante.

3 For the purposes of *ibid* Pt IV Ch XVI (ss 297-303) (partially in force) 'the transitional period' means the period which begins with the coming into force of s 298 (see note 2 *supra*), and ends on the day on which London Regional Transport ceases to provide or secure the provision of public passenger transport services: s 298(9).

4 As to the Mayor of London see PARA 81 *ante*.

5 Greater London Authority Act 1999 s 298(3). The provisions of s 298(4)-(8) (see the text and notes 6-11 *infra*) have effect for the purpose of facilitating the discharge of the duty of co-operation imposed on London Regional Transport and Transport for London by s 298(3): s 298(4).

6 *Ibid* s 298(5).

7 *Ibid* s 298(6)(a).

8 *Ibid* s 298(6)(b).

9 *Ibid* s 298(6)(c). Arrangements by virtue of s 298(6)(c) may only be entered into after consultation with the officers or members of staff concerned: s 298(8).

10 *Ibid* s 298(6)(d).

11 *Ibid* s 298(7).

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/4. TRANSPORT IN LONDON/(3) TRANSPORT FOR LONDON/(ii) The Transition from London Regional Transport to Transport for London/274. Fares etc during the transitional period.

## **274. Fares etc during the transitional period.**

If provision is made under or by virtue of the Greater London Authority Act 1999<sup>1</sup> which has the effect of applying to any extent in relation to London Regional Transport<sup>2</sup> during the transitional period<sup>3</sup> the power of the Mayor of London to issue guidance<sup>4</sup> and his duty in relation to the structure of fares and services<sup>5</sup>, then the Mayor, in discharging that duty as so applied in relation to London Regional Transport, must act in a way which he considers will not prejudice the financial or other interests of London Regional Transport, having regard to the financial and other interests of Transport for London<sup>6</sup>. If provision is made under or by virtue of the Greater London Authority Act 1999<sup>7</sup> which has the effect of:

- 412 (1) applying to any extent in relation to London Regional Transport during the transitional period any of the provisions relating to travel concessions<sup>8</sup>; and
- 413 (2) authorising or requiring Transport for London during the transitional period to act on behalf of London Regional Transport for the purposes of any of those provisions as so applied<sup>9</sup>,

then Transport for London, in acting on behalf of London Regional Transport for those purposes, must do so in a way which, having regard to its own financial and other interests, it considers will not prejudice the financial or other interests of London Regional Transport<sup>10</sup>.

1 As to the provision that has been made see the London Regional Transport (Transitional Modifications) Order 2000, SI 2000/1504.

2 As to London Regional Transport see PARA 271 ante.

3 For the meaning of 'transitional period' see PARA 273 note 3 ante.

4 Ie the power conferred on the Mayor of London by the Greater London Authority Act 1999 s 155 (see PARA 286 post). As to the Mayor of London see PARA 81 ante.

5 Ie the duty imposed on the Mayor of London by *ibid* s 174: see PARA 303 post.

6 *Ibid* s 299(1).

7 As to the provision that has been made see the London Regional Transport (Transitional Modifications) Order 2000, SI 2000/1504.

8 Greater London Authority Act 1999 s 299(2)(a). The provisions referred to in the text are any of the provisions contained in ss 240-243 (as amended) or Sch 16 (as amended): see PARAS 396-407 post.

9 *Ibid* s 299(2)(b).

10 *Ibid* s 299(2).

## **UPDATE**

### **274 Fares etc during the transitional period**

NOTE 7--SI 2000/1504 revoked: SI 2003/1615.



Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/4. TRANSPORT IN LONDON/(3) TRANSPORT FOR LONDON/(ii) The Transition from London Regional Transport to Transport for London/275. Continuity in relation to repealed or revoked functions.

## **275. Continuity in relation to repealed or revoked functions.**

There may be continued by or in relation to Transport for London<sup>1</sup> anything, including legal proceedings, which relates to an abolished function<sup>2</sup> and which is in the process of being done by or in relation to London Regional Transport<sup>3</sup> immediately before the abolition<sup>4</sup> of the function<sup>5</sup>. Anything which was made or done by or in relation to London Regional Transport for the purposes of or in connection with an abolished function<sup>6</sup>, and is in effect immediately before the abolition of the function<sup>7</sup>, has effect as if made or done by or in relation to Transport for London<sup>8</sup>. Transport for London must be substituted for London Regional Transport in any instruments, contracts or legal proceedings which relate to an abolished function and which were made or commenced before the abolition of the function<sup>9</sup>.

The provisions described above<sup>10</sup> do not apply in relation to an abolished function to the extent that the repeal or revocation of the statutory provision by which the function was conferred or imposed comes into force on terms which provide otherwise<sup>11</sup>.

1 As to the establishment of Transport for London see PARA 270 ante.

2 For these purposes, 'abolished function' means any function of London Regional Transport which was conferred or imposed by a statutory provision which is repealed or revoked by or under the Greater London Authority Act 1999: s 300(1). 'Statutory provision' means an enactment contained in: (1) an Act passed before the date on which London Regional Transport is dissolved or in the session in which that date falls; or (2) subordinate legislation made before that date or in that session: s 300(1). For these purposes, 'subordinate legislation' has the same meaning as in the Interpretation Act 1978 s 21(1) (see STATUTES vol 44(1) (Reissue) PARA 1232): Greater London Authority Act 1999 s 424(1).

3 Any reference in *ibid* s 300 to anything made or done by or in relation to London Regional Transport includes a reference to anything which by virtue of any enactment is treated as having been made or done by or in relation to London Regional Transport: s 300(6). As to London Regional Transport see PARA 271 ante.

4 For these purposes, 'abolition', in relation to an abolished function, means the coming into force of the repeal or revocation of the provision conferring or imposing the function: *ibid* s 300(1).

5 *Ibid* s 300(2). General provision is made for continuity of functions in relation to the Greater London Authority Act 1999 by s 415: see PARA 27 ante. The provisions of s 415(1)-(7) are expressed to be without prejudice to provisions made by or under that Act in relation to any particular functions: s 415(8).

6 *Ibid* s 300(3)(a).

7 *Ibid* s 300(3)(b).

8 *Ibid* s 300(3).

9 *Ibid* s 300(4).

10 *Ibid* s 300(2)-(4): see the text and notes 1-9 supra.

11 *Ibid* s 300(5).

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/4. TRANSPORT IN LONDON/(3) TRANSPORT FOR LONDON/(ii) The Transition from London Regional Transport to Transport for London/276. Transfer of former functions of the London Transport Executive to Transport for London.

**276. Transfer of former functions of the London Transport Executive to Transport for London.**

As from a day to be appointed, certain functions of the London Transport Executive<sup>1</sup> exercisable<sup>2</sup> by London Regional Transport<sup>3</sup> are instead to be exercisable by Transport for London<sup>4</sup>.

1 As to the London Transport Executive see PARAS 269, 271 ante.

2 Ie any functions exercisable by virtue of the London Regional Transport Act 1984 s 67(1) (prospectively repealed).

3 As to London Regional Transport see PARA 271 ante.

4 Greater London Authority Act 1999 s 301(1). At the date at which this volume states the law, no day had been appointed for the commencement of s 301(1).

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/4. TRANSPORT IN LONDON/(3) TRANSPORT FOR LONDON/(ii) The Transition from London Regional Transport to Transport for London/277. Dissolution of London Regional Transport.

### **277. Dissolution of London Regional Transport.**

When the Secretary of State<sup>1</sup> is satisfied that provision has been made for the transfer of all property, rights and liabilities of London Regional Transport<sup>2</sup>, he may by order provide for its dissolution<sup>3</sup>.

1 As to the Secretary of State see PARA 12 note 2 ante.

2 As to London Regional Transport see PARA 271 ante.

3 Greater London Authority Act 1999 s 302. At the date at which this volume states the law no dissolution order had been made.

### **UPDATE**

### **277 Dissolution of London Regional Transport**

NOTE 3--London Regional Transport has been dissolved by the London Regional Transport (Dissolution) Order 2003, SI 2003/1913.

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/4. TRANSPORT IN LONDON/(3) TRANSPORT FOR LONDON/(iii) Constitution and Status of Transport for London/278. Membership.

### **(iii) Constitution and Status of Transport for London**

#### **278. Membership.**

Transport for London<sup>1</sup> consists of not less than 8 nor more than 15 members, all of whom are appointed by the Mayor of London<sup>2</sup>. The Mayor may choose to be a member of Transport for London and where he does so he must appoint<sup>3</sup> not less than 7 nor more than 14 other members<sup>4</sup>. In appointing a person as a member of Transport for London, the Mayor must have regard to the desirability of ensuring that the members of Transport for London between them have experience in:

- 414 (1) transport, including in particular the impact of transport on business and the environment<sup>5</sup>;
- 415 (2) finance and commerce<sup>6</sup>;
- 416 (3) national and local government<sup>7</sup>;
- 417 (4) the management of organisations<sup>8</sup>; and
- 418 (5) the organisation of trade unions<sup>9</sup>, or matters relating to workers generally<sup>10</sup>,

and that the membership of Transport for London represents the interests in relation to transport of women and of persons who require transport which is accessible to persons with mobility problems<sup>11</sup>.

A person may not be appointed to be a member of Transport for London if he is:

- 419 (a) an Assembly member<sup>12</sup>;
- 420 (b) a Member of the House of Commons<sup>13</sup>;
- 421 (c) a Member of the House of Lords<sup>14</sup>;
- 422 (d) a Member of the European Parliament<sup>15</sup>;
- 423 (e) a member of the National Assembly for Wales<sup>16</sup>;
- 424 (f) a member of the Scottish Parliament<sup>17</sup>;
- 425 (g) a member of the New Northern Ireland Assembly<sup>18</sup>; or
- 426 (h) a member of a principal council<sup>19</sup>.

If, at any time after he is appointed, a member of Transport for London becomes a person within heads (a) to (h) above, he ceases to be such a member<sup>20</sup>. The statutory provisions disqualifying persons holding politically restricted posts<sup>21</sup> from becoming or remaining members of local authorities<sup>22</sup> have effect, subject to certain necessary modifications<sup>23</sup>, in relation to membership of Transport for London as they have effect in relation to membership of local authorities<sup>24</sup>.

The terms and conditions of appointment of a member of Transport for London, including conditions as to remuneration, are such as the Mayor may determine<sup>25</sup>. The Mayor may by notice to a member of Transport for London remove that member from office<sup>26</sup>.

The Mayor must designate one of the members of Transport for London to be chairman of Transport for London<sup>27</sup>, and another of the members to be deputy chairman<sup>28</sup>. However, where the Mayor is a member of Transport for London, he is the chairman<sup>29</sup>.



A committee of Transport for London or a sub-committee of such a committee may include persons who are not members of Transport for London<sup>30</sup>. A person who is a member of a committee of Transport for London or a sub-committee of such a committee but is not a member of Transport for London is a non-voting member of the committee or sub-committee<sup>31</sup>.

1 As to the establishment of Transport for London see PARA 270 ante.

2 Greater London Authority Act 1999 s 154(4), Sch 10 para 2(1). As to the Mayor of London see PARA 81 ante.

3 le under ibid Sch 10 para 2(1): see the text to notes 1-2 supra.

4 Ibid Sch 10 para 2(2).

5 Ibid Sch 10 para 2(3)(a).

6 Ibid Sch 10 para 2(3)(b).

7 Ibid Sch 10 para 2(3)(c).

8 Ibid Sch 10 para 2(3)(d).

9 As to trade unions see EMPLOYMENT vol 40 (2009) PARA 846 et seq.

10 Greater London Authority Act 1999 Sch 10 para 3(3)(e).

11 Ibid Sch 10 para 2(3).

12 Ibid Sch 10 para 2(4)(a). For the meaning of 'Assembly member' see PARA 82 note 3 ante.

13 Ibid Sch 10 para 2(4)(b).

14 Ibid Sch 10 para 2(4)(c).

15 Ibid Sch 10 para 2(4)(d).

16 Ibid Sch 10 para 2(4)(e). As to the National Assembly for Wales see CONSTITUTIONAL LAW AND HUMAN RIGHTS.

17 Ibid Sch 10 para 2(4)(f).

18 Ibid Sch 10 para 2(4)(g).

19 Ibid Sch 10 para 2(4)(h). For these purposes, 'a principal council' has the same meaning as in the Local Government Act 1972 s 270(1) (see LOCAL GOVERNMENT vol 69 (2009) PARA 23): Greater London Authority Act 1999 s 424(1).

20 Ibid Sch 10 para 2(5).

21 The term 'politically restricted post' is defined for these purposes in the Local Government and Housing Act 1989 s 2 (as amended): see LOCAL GOVERNMENT vol 69 (2009) PARA 122. Provision for exemption from the disqualification is made by s 3: see LOCAL GOVERNMENT vol 69 (2009) PARA 124.

22 le the Local Government and Housing Act 1989 ss 1-3 (ss 1, 2 as amended); see LOCAL GOVERNMENT vol 69 (2009) PARAS 120-124.

23 The modifications apply to the Local Government and Housing Act 1989 s 2 (as amended), which identifies the persons who are for these purposes holders of politically restricted posts. Specifically, the modifications are that in the Local Government and Housing Act 1989 s 2 (as amended), so far as it has effect for the purposes of s 1 (as amended), the expression 'the statutory chief officers' is taken to include a reference to the chief finance officer within the meaning of the Greater London Authority Act 1999 s 127 (see PARA 250 ante), (1) of Transport for London; and (2) of the London Development Agency, whether he is an officer, employee, member of staff or member of Transport for London or, as the case may be, the London Development Agency (s 68(6)). As to the Greater London Authority see PARA 79 et seq ante. As to the Mayor of London and the London Assembly see PARAS 81-82 ante. As to the London Development Agency see PARA 215 ante; and TRADE AND INDUSTRY vol 97 (2010) PARA 988 et seq.

24 Greater London Authority Act 1999 s 68(1), (2)(b). A member of staff appointed by the Mayor (ie a person employed by the Greater London Authority by virtue of his appointment under s 67(1)(b) (see PARA 134 ante)) is not, by virtue only of s 68(1), (2), disqualified from being or becoming an unpaid member of Transport for London or the London Development Agency: s 68(3). For these purposes the unpaid members of any body are those members of the body who do not receive any remuneration (whether from the body, the Authority or any other source) which they would not receive if they were not members of the body s 68(4).

25 Ibid Sch 10 para 2(6).

26 Ibid Sch 10 para 2(7).

27 Ibid Sch 10 para 3(1)(a).

28 Ibid Sch 10 para 3(1)(b).

29 Ibid Sch 10 para 3(2). As to the appointment of the Mayor as a member of Transport for London see the text and note 3 supra.

30 Ibid Sch 10 para 6(1). As to committees of Transport for London see PARA 281 post.

31 Ibid Sch 10 para 6(2).

## **UPDATE**

### **278 Membership**

TEXT AND NOTES 1-26--The Mayor must exercise his powers under the Greater London Authority Act 1999 Sch 10 para 2 so as to secure that at least two members of Transport for London are able to represent the interests of the persons living, working and studying in areas outside Greater London that are served by railway passenger services in respect of which Transport for London carries out functions, or is likely to do so: Sch 10 para 2(2A) (added by Railways Act 2005 s 17(4)). In the 1999 Act Sch 10 para 2 'railway passenger service' has the same meaning as in the Railways Act 1993 Pt 1: 1999 Act Sch 10 para 2(8) (added by 2005 Act s 17(7)). Before making an appointment for the purposes of the 1999 Act Sch 10 para 2(2A), the Mayor must consult the responsible regional authorities (TOWN AND COUNTRY PLANNING vol 46(1) (Reissue) PARA 85C) for each of the regions where the areas served by the services mentioned in that provision are situated: Sch 10 para 2(3A) (added by 2005 Act s 17(5)), and amended by Local Democracy, Economic Development and Construction Act 2009 Sch 5 para 11).

It is the duty of the Mayor of London, within the period of six months beginning with the commencement of s 17(4) (ie 8 August 2007: see SI 2007/1993) (a) to review the existing membership of Transport for London; and (b) to decide whether it is necessary for the purposes of the 1999 Act Sch 10 para 2(2A) for him to exercise any of his powers under Sch 10 para 2: 2005 Act s 17(8). Before making that decision the Mayor must consult the same regional planning bodies (within the meaning of the 1999 Act Sch 10 para 2) as he is required to consult before making an appointment for the purposes of that provision: 2005 Act s 17(9).

Payments by way of remuneration or allowances, other than allowances in respect of travel or subsistence, must not be made to members of Transport for London who are also Assembly members: 1999 Act Sch 10 para 3A(1) (para 3A added by the Greater London Authority Act 2007 s 19(3)). This does not prevent the payment of an allowance under the 1999 Act Sch 10 para 2(6) to the chairman or deputy chairman of Transport for London in respect of that office: Sch 10 para 3A(2) (as so added).

TEXT AND NOTE 2--In 1999 Act Sch 10 para 2(1) for '15' read '17': 2005 Act s 17(2).

TEXT AND NOTE 4--In 1999 Act Sch 10 para 2(2) for '14' read '16': 2005 Act s 17(3).

TEXT AND NOTE 24--1999 Act s 68(1) amended: Local Government and Public Involvement in Health Act 2007 s 203(3)(b).

TEXT AND NOTE 25--1999 Act Sch 10 para 2(6) amended: 2007 Act s 19(2).

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/4. TRANSPORT IN LONDON/(3) TRANSPORT FOR LONDON/(iii) Constitution and Status of Transport for London/279. Members' interests.

## **279. Members' interests.**

If a member of Transport for London<sup>1</sup> has any interest, whether direct or indirect, and whether pecuniary or not, in any matter that is brought up for consideration at a meeting of Transport for London he must disclose the nature of the interest to the meeting<sup>2</sup>. Where such a disclosure is made it must be recorded in the minutes of the meeting<sup>3</sup> and the member must not take any part in any deliberation or decision of Transport for London, or any of its committees or sub-committees<sup>4</sup>, with respect to that matter<sup>5</sup>. A member need not attend in person at a meeting of Transport for London in order to make such a disclosure if he takes reasonable steps to secure that the disclosure is made by a notice which is read and considered at the meeting<sup>6</sup>.

The Mayor of London<sup>7</sup> may, subject to such conditions as he considers appropriate, remove any disability so imposed<sup>8</sup> in any case where the number of members of Transport for London so disabled at any one time would be so great a proportion of the whole as to impede the transaction of business<sup>9</sup>. This power of the Mayor includes power to remove, either indefinitely or for any period, a disability which would otherwise attach to any member, or members of any description, by reason of such interests, and in respect of such matters, as may be specified or described by the Mayor<sup>10</sup>. Where the Mayor exercises the power<sup>11</sup> to remove a disability, he must notify Transport for London that he has done so, and of his reasons for doing so<sup>12</sup>, and the removal of the disability and the Mayor's reasons must be recorded in the minutes of Transport for London<sup>13</sup>.

If any person fails to comply with the provisions as to disclosure<sup>14</sup>, he is for each offence liable on summary conviction to a fine<sup>15</sup> unless he proves that he did not know that the contract, proposed contract or other matter in which he had the interest was the subject of consideration at the meeting<sup>16</sup>. Transport for London may provide for the exclusion of a member from a meeting of Transport for London while any contract, proposed contract or other matter in which he has such an interest<sup>17</sup> is under consideration<sup>18</sup>.

1 As to the establishment of Transport for London see PARA 270 ante.

2 Greater London Authority Act 1999 s 154(4), Sch 10 para 13(1). The Local Government Act 1972 ss 95-97 (as amended; prospectively repealed) (see LOCAL GOVERNMENT vol 69 (2009) PARAS 288-289), and the Local Government and Housing Act 1989 s 19 (prospectively repealed) apply to members' interests under the Greater London Authority Act 1999 Sch 10 para 13 with modifications: see Sch 10 para 13(9)-(12).

3 Ibid Sch 10 para 13(1)(a).

4 As to committees of Transport for London see PARA 281 post.

5 Greater London Authority Act 1999 Sch 10 para 13(1)(b).

6 Ibid Sch 10 para 13(2).

7 As to the Mayor of London see PARA 81 ante.

8 Ie imposed by virtue of the Greater London Authority Act 1999 Sch 10 para 13.

9 Ibid Sch 10 para 13(3).

10 Ibid Sch 10 para 13(4).

11 Ie under ibid Sch 10 para 13(3): see the text to notes 7-9 supra.

12 Ibid Sch 10 para 13(5)(a).

13 Ibid Sch 10 para 13(5)(b).

14 Ie the provisions of ibid Sch 10 para 13(1): see the text to notes 1-5 supra.

15 The fine imposed is one not exceeding level 4 on the standard scale: see ibid Sch 10 para 13(6). As to the standard scale see PARA 87 note 6 ante.

16 Ibid Sch 10 para 13(6). A prosecution for an offence under Sch 10 para 13 must not be instituted except by or on behalf of the Director of Public Prosecutions: Sch 10 para 13(7). As to the Director of Public Prosecutions see CRIMINAL LAW, EVIDENCE AND PROCEDURE vol 11(3) (2006 Reissue) PARAS 1066, 1079 et seq.

17 Ie as is mentioned in ibid Sch 10 para 13(1): see the text to notes 1-5 supra.

18 Ibid Sch 10 para 13(8).

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/4. TRANSPORT IN LONDON/(3) TRANSPORT FOR LONDON/(iii) Constitution and Status of Transport for London/280. Staff.

## **280. Staff.**

Transport for London<sup>1</sup> may appoint such staff as it considers necessary for assisting it in the exercise of any of its functions<sup>2</sup>. The staff of Transport for London are appointed on such terms and conditions, including conditions as to remuneration, as Transport for London determines<sup>3</sup>. Transport for London may do anything it thinks fit for the purpose of advancing:

- 427 (1) the skill of persons employed by Transport for London or by any subsidiary of Transport for London<sup>4</sup>;
- 428 (2) the efficiency of the equipment of Transport for London or of any subsidiary of Transport for London or of the manner in which that equipment is operated<sup>5</sup>,

including providing, or assisting others in providing, facilities for training, education and research<sup>6</sup>. Transport for London may provide houses, hostels and other similar accommodation for persons employed by it or by any of its subsidiaries<sup>7</sup>.

1 As to the establishment of Transport for London see PARA 270 ante.

2 Greater London Authority Act 1999 s 154(4), Sch 10 para 4(1). Employment with Transport for London is included among the kinds of employment to which a scheme under the Superannuation Act 1972 s 1 (see SOCIAL SECURITY AND PENSIONS vol 44(2) (Reissue) PARAS 875-876) can apply: Greater London Authority Act 1999 s 389(1) (b). See also the Superannuation Act 1972 Sch 1 (amended by the Greater London Authority Act 1999 s 389(2)); and ss 389(3)-(6), 390.

3 Ibid Sch 10 para 4(2).

4 Ibid s 156(8), Sch 11 para 23(1)(a).

5 Ibid Sch 11 para 23(1)(b).

6 Ibid Sch 11 para 23(1).

7 Ibid Sch 11 para 23(2).

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/4. TRANSPORT IN LONDON/(3) TRANSPORT FOR LONDON/(iii) Constitution and Status of Transport for London/281. Delegation and joint committees.

## **281. Delegation and joint committees.**

Subject to any express provision contained in the Greater London Authority Act 1999 or any Act passed after that Act, Transport for London<sup>1</sup> may arrange for any of its functions to be discharged on its behalf by any:

- 429 (1) committee of Transport for London<sup>2</sup>;
- 430 (2) sub-committee of such a committee<sup>3</sup>;
- 431 (3) wholly-owned subsidiary<sup>4</sup> of Transport for London<sup>5</sup>;
- 432 (4) member or officer of Transport for London<sup>6</sup>; or
- 433 (5) body of members or officers, or members and officers, of Transport for London<sup>7</sup>.

Where Transport for London makes such arrangements for the discharge of any function, the person or body by whom the function is to be discharged must exercise the function subject to any conditions imposed by Transport for London<sup>8</sup>. Such arrangements made by Transport for London for the discharge of functions do not, however, prevent Transport for London from exercising those functions<sup>9</sup>.

Where Transport for London makes such arrangements for the discharge of any function by a committee, the committee may, subject to any conditions imposed by Transport for London, arrange for the discharge of the function on its behalf by any sub-committee of the committee<sup>10</sup>, any member or officer of Transport for London<sup>11</sup>, or any body of members or officers, or members and officers, of Transport for London<sup>12</sup>. Where Transport for London makes such arrangements for the discharge of any function by a sub-committee<sup>13</sup>, or a committee of Transport for London makes arrangements<sup>14</sup> for the discharge of any function by a sub-committee<sup>15</sup>, the sub-committee may (subject to any conditions imposed by Transport for London or the committee) arrange for the discharge of the function on its behalf by any member or officer of Transport for London, or any body of members or officers, or members and officers, of Transport for London<sup>16</sup>. Where a committee or sub-committee makes such arrangements<sup>17</sup> for the discharge of any function, the person or body by whom the function is to be discharged must exercise the function subject to any conditions imposed by the committee or sub-committee<sup>18</sup>. Such arrangements made by a committee or sub-committee for the discharge of functions do not prevent the committee or sub-committee from exercising those functions<sup>19</sup>.

<sup>1</sup> As to the establishment of Transport for London see PARA 270 ante. Transport for London is to be treated as a local authority for the purposes of the Local Government Act 1972 ss 101(5) 102 (as amended; prospectively further amended) (apart from s 102(1)(a), (4) (as amended; prospectively further amended) to the extent that it would permit Transport for London to appoint a committee which is not a joint committee), and s 103 (as amended) (arrangements for discharge of functions of a local authority by joint committees with other local authorities) (see LOCAL GOVERNMENT vol 69 (2009) PARA 380); see the Greater London Authority Act 1999 s 154(4), Sch 10 para 9(1). As to the formation of joint committees by Transport for London and London local authorities for certain road traffic purposes see the Road Traffic Regulation Act 1984 s 55(8) (as added) and the Road Traffic Act 1991 s 73(1) (as substituted); and ROAD TRAFFIC vol 40(2) (2007 Reissue) PARA 895. Nothing in the Local Government and Housing Act 1989 s 13 (as amended) (non-voting members of committees of local authorities) (see LOCAL GOVERNMENT vol 69 (2009) PARA 374) requires a person to be treated as a non-voting member of a committee appointed by Transport for London and one or more other local authorities by virtue of the Local Government Act 1972 s 105(1) (prospectively repealed) if that person is appointed to the committee

by Transport for London, and is not a member of Transport for London: Greater London Authority Act 1999 Sch 10 para 9(2).

2 Ibid Sch 10 para 7(1)(a).

3 Ibid Sch 10 para 7(1)(b).

4 'Wholly-owned subsidiary' has the meaning given by the Companies Act 1985 s 736(2) (as substituted) (see COMPANIES vol 14 (2009) PARA 25): Greater London Authority Act 1999 Sch 10 para 7(1)(c). As to the formation of subsidiary companies by Transport for London see PARA 287 post.

5 Ibid Sch 10 para 7(1)(c).

6 Ibid Sch 10 para 7(1)(d).

7 Ibid Sch 10 para 7(1)(e).

8 Ibid Sch 10 para 7(2).

9 Ibid Sch 10 para 7(3).

10 Ibid Sch 10 para 8(1)(a).

11 Ibid Sch 10 para 8(1)(b).

12 Ibid Sch 10 para 8(1)(c).

13 Ibid Sch 10 para 8(2)(a).

14 Ie under ibid Sch 10 para 8(1): see the text to notes 10-12 supra.

15 Ibid Sch 10 para 8(2)(b).

16 Ibid Sch 10 para 8(2).

17 Ie under ibid Sch 10 para 8.

18 Ibid Sch 10 para 8(3).

19 Ibid Sch 10 para 8(4).

## **UPDATE**

### **281 Delegation and joint committees**

NOTE 5--Greater London Authority Act 1999 Sch 10 para 7(1)(c) amended: SI 2009/1941.



Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/4. TRANSPORT IN LONDON/(3) TRANSPORT FOR LONDON/(iii) Constitution and Status of Transport for London/282. Proceedings and minutes.

## **282. Proceedings and minutes.**

Transport for London<sup>1</sup> may regulate its own procedure and that of its committees and sub-committees of such committees, and in particular may specify a quorum for meetings<sup>2</sup>. The validity of any proceedings of Transport for London is not affected by any vacancy among the members or in the office of chairman or deputy chairman<sup>3</sup>, or by any defect in the appointment of any person as a member, or as chairman or deputy chairman, of Transport for London<sup>4</sup>.

Minutes must be kept of proceedings of Transport for London, of its committees and of sub-committees of such committees<sup>5</sup>. Minutes of any such proceedings are evidence of those proceedings if they are signed by a person purporting to have acted as chairman of the proceedings to which the minutes relate or of any subsequent proceedings in the course of which the minutes were approved as a correct record<sup>6</sup>. Where minutes of any such proceedings have been so signed, those proceedings, unless the contrary is shown, are deemed to have been validly convened and constituted<sup>7</sup>.

1 As to the establishment of Transport for London see PARA 270 ante.

2 Greater London Authority Act 1999 s 154(4), Sch 10 para 5(1), which is expressed to be subject to the provisions of Sch 10.

3 Ibid Sch 10 para 5(2)(a).

4 Ibid Sch 10 para 5(2)(b). As to the appointment of members and of the chairman and deputy chairman see PARA 278 ante.

5 Ibid Sch 10 para 10(1).

6 Ibid Sch 10 para 10(2).

7 Ibid Sch 10 para 10(3).

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/4. TRANSPORT IN LONDON/(3) TRANSPORT FOR LONDON/(iii) Constitution and Status of Transport for London/283. Documents and instruments.

### **283. Documents and instruments.**

The application of the seal of Transport for London<sup>1</sup> is authenticated by the signature<sup>2</sup> of any member, officer or member of staff of Transport for London who has been authorised for the purpose, whether generally or specially, by Transport for London<sup>3</sup>.

Any document which Transport for London is authorised or required by or under any enactment to serve, make or issue may be signed<sup>4</sup> on behalf of Transport for London by any member, officer or member of staff of Transport for London who has been authorised for the purpose, whether generally or specially, by Transport for London<sup>5</sup>.

Every document purporting to be an instrument made or issued by or on behalf of Transport for London and to be duly executed under the seal of Transport for London, or to be signed<sup>6</sup> or executed by a person authorised by Transport for London for the purpose, must be received in evidence and be treated, without further proof, as being so made or so issued unless the contrary is shown<sup>7</sup>. Any notice which is required or authorised, by or under any provision of any other Act, to be given, served or issued by, to or on Transport for London must be in writing<sup>8</sup>.

1 As to the establishment of Transport for London see PARA 270 ante.

2 This reference to the signature of a person includes a reference to a facsimile of a signature by whatever process reproduced; and, in the Greater London Authority Act 1999 s 154(4), Sch 10 para 12 (see the text to notes 5-7 infra), the word 'signed' is to be construed accordingly: Sch 10 para 11(2).

3 Ibid Sch 10 para 11(1).

4 See note 2 supra.

5 Greater London Authority Act 1999 Sch 10 para 12(1).

6 See note 2 supra.

7 Greater London Authority Act 1999 Sch 10 para 12(2).

8 Ibid Sch 10 para 12(3).

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/4. TRANSPORT IN LONDON/(3) TRANSPORT FOR LONDON/(iii) Constitution and Status of Transport for London/284. Status and capacity.

**284. Status and capacity.**

Transport for London<sup>1</sup> is not to be regarded as the servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown<sup>2</sup>. The members and staff of Transport for London are not to be regarded as civil servants, and the property of Transport for London is not to be regarded as property of, or held on behalf of, the Crown<sup>3</sup>.

It is within the capacity of Transport for London to do such things and enter into such transactions as are calculated to facilitate, or are conducive or incidental to, the discharge of any of its functions<sup>4</sup>.

1 As to the establishment of Transport for London see PARA 270 ante.

2 Greater London Authority Act 1999 s 154(4), Sch 10 para 1(1).

3 Ibid Sch 10 para 1(2).

4 Ibid Sch 10 para 1(3). As to the functions, powers and duties of Transport for London see PARA 287 et seq post.

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/4. TRANSPORT IN LONDON/(3) TRANSPORT FOR LONDON/(iii) Constitution and Status of Transport for London/285. Taxation.

## **285. Taxation.**

Transport for London<sup>1</sup> is exempt from all charge to income tax in respect of its income<sup>2</sup>, from corporation tax<sup>3</sup>, and from capital gains tax<sup>4</sup>.

1 As to the establishment of Transport for London see PARA 270 ante.

2 Income and Corporation Taxes Act 1988 s 519(1)(a); Greater London Authority Act 1999 s 419(1)(a), (2)(a). So far as the exemption from income tax conferred by the Income and Corporation Taxes Act 1988 s 519(1)(a) calls for repayment of tax, effect must be given thereto by means of a claim: s 519(1); Greater London Authority Act 1999 s 419(1)(a), (2)(a). As to income tax generally see INCOME TAXATION.

3 Income and Corporation Taxes Act 1988 s 519(1)(b); Greater London Authority Act 1999 s 419(1)(a), (2)(a). As to corporation tax generally see INCOME TAXATION.

4 Taxation of Chargeable Gains Act 1992 s 271(3); Greater London Authority Act 1999 s 419(1)(a), (2)(b). In the Taxation of Chargeable Gains Act 1992 ss 170-181 (as amended) (taxation of companies), references to a company do not apply to Transport for London: Greater London Authority Act 1999 s 419(3). As to capital gains tax generally see CAPITAL GAINS TAXATION.

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/4. TRANSPORT IN LONDON/(3) TRANSPORT FOR LONDON/(iv) Functions, Powers and Duties of Transport for London/A. GENERAL POWERS/286. Control of Transport for London by the Mayor.

## **(iv) Functions, Powers and Duties of Transport for London**

### **A. GENERAL POWERS**

#### **286. Control of Transport for London by the Mayor.**

The Mayor of London<sup>1</sup> may issue to Transport for London<sup>2</sup>: (1) guidance<sup>3</sup> as to the manner in which it is to exercise its functions<sup>4</sup>; (2) general directions as to the manner in which it is to exercise its functions<sup>5</sup>; or (3) specific directions as to the exercise of its functions<sup>6</sup>. The guidance or directions which may be issued by the Mayor may include in particular guidance or directions as to the manner in which Transport for London is to perform any of its duties<sup>7</sup>, or the manner in which it is to conduct any legal proceedings<sup>8</sup>. Any such guidance or directions must be issued in writing and notified<sup>9</sup> to such officer of Transport for London as it may from time to time nominate to the Mayor for the purpose<sup>10</sup>.

1 As to the Mayor of London see PARA 81 ante.

2 As to the establishment of Transport for London see PARA 270 ante.

3 For the meaning of 'guidance' see PARA 96 note 2 ante.

4 Greater London Authority Act 1999 s 155(1)(a).

5 Ibid s 155(1)(b).

6 Ibid s 155(1)(c). Directions issued by the Mayor under s 155(1)(c) may include a direction not to exercise a power specified in the direction: s 155(2). As to the giving of directions see PARA 13 ante.

7 Ibid s 155(3)(a).

8 Ibid s 155(3)(b).

9 For the meaning of 'notify' see PARA 83 note 10 ante.

10 Greater London Authority Act 1999 s 155(4).

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/4. TRANSPORT IN LONDON/(3) TRANSPORT FOR LONDON/(iv) Functions, Powers and Duties of Transport for London/A. GENERAL POWERS/287. Formation of companies and agreements.

## **287. Formation of companies and agreements.**

Transport for London<sup>1</sup> may form, promote and assist, or join with any other person in forming, promoting and assisting, a company<sup>2</sup> for the purpose of carrying on any activities which Transport for London has power to carry on<sup>3</sup>, or carrying on such activities together with activities which Transport for London does not have power to carry on<sup>4</sup>.

Transport for London may enter into and carry out agreements with any person for the carrying on by that person, whether as agent for Transport for London or otherwise, of any activities which Transport for London has power to carry on, and, in particular, with respect to the provision or financing of any public passenger transport services which Transport for London has power to provide<sup>5</sup>. Transport for London may also enter into and carry out an agreement with any person for the carrying on by that person ('the contractor') of any activities which Transport for London does not have power to carry on if the agreement includes provision for one or more of the following, namely:

- 434 (1) the carrying on by the contractor of such activities as are mentioned<sup>6</sup> above<sup>7</sup>;
- 435 (2) the provision by the contractor to Transport for London of services ancillary to the provision of public passenger transport services<sup>8</sup>; and
- 436 (3) the use by the contractor of land or other property owned by Transport for London, or transferred to the contractor by Transport for London, for the purposes of the agreement<sup>9</sup>.

Where a company has been formed, whether by Transport for London alone or by Transport for London jointly with some other person<sup>10</sup>, or Transport for London has entered into an agreement<sup>11</sup> with any person<sup>12</sup>, Transport for London may enter into arrangements with that company or person for the transfer from Transport for London to that company or person, in such manner and on such terms (including payments by any of the parties to the arrangements to any of the other parties) as may be provided for by the arrangements, of any property, rights or liabilities of Transport for London relevant to the purpose for which the company was formed or, as the case may be, to the performance by that person of his obligations under the agreement<sup>13</sup>.

Transport for London has the power to enter into and carry out agreements with any of its subsidiaries<sup>14</sup>, or any person with whom it has entered into an agreement<sup>15</sup>, providing for Transport for London to give assistance to the other party to the agreement by making available to that party any services, amenities or facilities provided by, or any works or land or other property belonging to, Transport for London, on such terms (including the reciprocal provision by that other party of similar assistance for Transport for London) as may be agreed between them<sup>16</sup>. The power of Transport for London to enter into an agreement<sup>17</sup> is exercisable notwithstanding that the agreement involves the delegation of the functions of Transport for London under any enactment relating to any part of its undertaking<sup>18</sup>.

1 As to the establishment of Transport for London see PARA 270 ante.

2 For the meaning of 'company' see PARA 17 note 19 ante.

3 Greater London Authority Act 1999 s 156(1)(a).

4 Ibid s 156(1)(b).

5 Ibid s 156(2). As to public passenger transport see PARA 299 post. Where an agreement has been entered into under s 156(2) or s 156(3), the powers conferred on Transport for London by that provision include power to enter into and carry out other agreements with other persons for the purpose of fulfilling any condition which must be fulfilled before the agreement can have effect, or satisfying any requirement imposed by or under the agreement: s 156(4).

6 Ie mentioned in ibid s 156(2): see the text to note 5 supra.

7 Ibid s 156(3)(a). See note 5 supra.

8 Ibid s 156(3)(b). See note 5 supra.

9 Ibid s 156(3)(c). See note 5 supra.

10 Ibid s 156(5)(a).

11 Ie in exercise of its powers under ibid s 156(2) or s 156(3): see the text and notes 5-9 supra.

12 Ibid s 156(5)(b).

13 Ibid s 156(5).

14 For the purposes of the Greater London Authority Act 1999 'subsidiary' has the same meaning as in the Companies Act 1985 s 736 (as substituted) (see COMPANIES vol 14 (2009) PARA 25): Greater London Authority Act 1999 s 424(1).

15 Ie by virtue of ibid s 156(2) or s 156(3): see the text and notes 5-9 supra.

16 Ibid s 156(6), which is expressed to be without prejudice to s 173(1) (power to provide public passenger transport) (see PARA 299 post) or s 176 (co-operation with other persons) (see PARA 298 post). References in the Greater London Authority Act 1999 to amenities or facilities provided by Transport for London include amenities or facilities provided, or managed or operated, by any other person in pursuance of arrangements under s 156(8), Sch 11 para 6 (see PARA 305 notes 12-15 post): Sch 11 para 6(3).

17 Ie under ibid s 156(2) or s 156(3): see the text and notes 5-9 supra.

18 Ibid s 156(7).

## UPDATE

### 287-293 Formation of companies and agreements...control of subsidiaries

As to the relaxation of contractual restrictions on Transport for London see PARA 287A.

For provision with respect to the contracting out of certain services see PARA 287B.

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/4. TRANSPORT IN LONDON/(3) TRANSPORT FOR LONDON/(iv) Functions, Powers and Duties of Transport for London/A. GENERAL POWERS/287A. Transport for London: relaxation of contractual restrictions.

### **287A. Transport for London: relaxation of contractual restrictions.**

Transport for London may not enter into an agreement (1) with a person who is a franchisee or franchise operator in relation to a franchise agreement, or (2) with a person who is proposing to become such a franchisee or franchise operator, unless the agreement is approved by the Secretary of State<sup>1</sup>. An agreement that relates exclusively to the grant of permission by a facility owner for a person to use a railway facility of his does not require the approval of the Secretary of State<sup>2</sup> in any case in which Transport for London or a subsidiary<sup>3</sup> of its is the facility owner or the person granted permission<sup>4</sup>. The Secretary of State may (a) give a general approval<sup>5</sup> in relation to a description of agreements, as well as specific approvals for particular agreements; and (b) withdraw his approval in relation to any agreement at any time before the agreement is entered into<sup>6</sup>. The agreements to which Transport for London may become a party with the approval of the Secretary of State include franchise agreements under which services are provided which are or include services for the carriage of passengers by railway between places in Greater London<sup>7</sup>.

1 Railways Act 2005 s 16(2).

2 Under the Railways Act 2005 s 16(2).

3 In the Railways Act 2005 s 16 'subsidiary' has the meaning given to it by the Companies Act 2006 s 1159 (see COMPANIES VOL 14 (2009) PARA 25): Railways Act 2005 s 16(6) (amended by SI 2009/1941).

4 Railways Act 2005 s 16(3).

5 For the purposes of the Railways Act 2005 s 16(2).

6 Railways Act 2005 s 16(4).

7 Railways Act 2005 s 16(5).

### **UPDATE**

### **287-293 Formation of companies and agreements...control of subsidiaries**

As to the relaxation of contractual restrictions on Transport for London see PARA 287A.  
For provision with respect to the contracting out of certain services see PARA 287B.



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## **287B. Restrictions on contracting out certain services.**

Transport for London<sup>1</sup> must not, without the consent of the Secretary of State, enter into or carry out any agreement under which an outside contractor<sup>2</sup> is to provide or secure the provision of a reserved service<sup>3</sup> for Transport for London or a subsidiary of Transport for London<sup>4</sup>. Where a company<sup>5</sup> which is a subsidiary of Transport for London provides or is to provide, or secures or is to secure the provision of, a reserved service for Transport for London or a subsidiary of Transport for London, Transport for London must not, without the consent of the Secretary of State, enter into any transaction or series of transactions the result of which would be that the company would cease to be a subsidiary of Transport for London, but would nevertheless provide or continue to provide, or secure or continue to secure the provision of, the reserved service<sup>6</sup>. Nothing in these provisions apply in relation to a contract of employment<sup>7</sup> between an individual and Transport for London or a subsidiary of Transport for London<sup>8</sup>. Any consent of the Secretary of State under these provisions must be in writing, and may be given in relation to any particular transaction or description of transactions and may be given subject to conditions<sup>9</sup>.

1 As to Transport for London see PARA 269 et seq.

2 'Outside contractor' means a person other than Transport for London or a subsidiary of Transport for London: Greater London Authority Act 1999 s 207(8). The Secretary of State may by order amend s 207 for the purpose of varying the meaning in s 207 of the expression 'outside contractor': s 207(9)(c). For the meaning of 'subsidiary' see PARA 288 note 2.

3 The services which are 'reserved services' are those whose provision by a person would involve that person in performing or securing the performance, for the purposes of any TfL passenger rail service, of any station-operating function, or any train-operating function: s 207(1). 'TfL passenger rail service' means any public service for the carriage of passengers by railway which is under the control of Transport for London or a subsidiary of Transport for London: s 207(8). 'Railway' has the meaning given in the Transport and Works Act 1992 s 67(1): Greater London Authority Act 1999 s 207(8). 'Station-operating function' means any of the following functions: (1) the sale or collection of tickets at stations; (2) the inspection of tickets, or the imposing of penalty fares, at or in the vicinity of a station, but otherwise than on a train; (3) the making of oral public announcements at stations; (4) the provision of information orally to members of the public at stations, otherwise than by means of public announcements; (5) any duties of staff employed on platforms at stations; (6) any duties of staff employed at a place from which the operation of the whole or part of a station is controlled (whether or not the operation of trains is also controlled from that place); (7) any other function involved in the management or operation of a station: s 207(7). 'Ticket' includes any other authority to travel or to be present in a part of a station where such an authority is required: s 207(8). 'Station' means any land or other property which consists of premises used as, or for the purposes of, or otherwise in connection with, a railway passenger station or railway passenger terminal (including any approaches, forecourt, cycle store or car park), whether or not the land or other property is, or the premises are, also used for other purposes: s 207(8). 'Premises' includes any land, building or structure: s 207(8). 'Train-operating function' means any of the following functions: (a) the driving of passenger trains otherwise than within a depot; (b) any duties of guards on passenger trains; (c) the sale, collection or inspection of tickets, or the imposing of penalty fares, on passenger trains; (d) the operation of signals for controlling the movement of passenger trains otherwise than within a depot; (e) the exercise of control over the movement of passenger trains otherwise than within a depot; (f) any other function involved in the operation of passenger trains otherwise than within a depot: s 207(7). 'Passenger train' means a train which is being, has just been, or is about to be, used for the provision of a TfL passenger rail service: s 207(8).

The Secretary of State may by order amend s 207 for the purpose of varying the meaning in s 207 of any of the following expressions: 'train-operating function', 'station-operating function', or 'TfL passenger rail service': s 207(9)(a), (b), (d). See the Transport for London (Reserved Services) (London Underground Limited) Exception Order 2003, SI 2003/1613.

4 Greater London Authority Act 1999 s 207(2). The Secretary of State may by order provide exceptions from s 207(2): s 207(5). See the Transport for London (Reserved Services) (London Underground Limited) Exception Order 2003, SI 2003/1613.

5 'Company' means any body corporate: Greater London Authority Act 1999 s 424(1).

6 Ibid s 207(3). The Secretary of State may by order provide exceptions from s 207(3): s 207(5).

7 'Contract of employment' means any contract of service or apprenticeship: ibid s 207(8).

8 Ibid s 207(4).

9 Ibid s 207(6).

## **UPDATE**

### **287-293 Formation of companies and agreements...control of subsidiaries**

As to the relaxation of contractual restrictions on Transport for London see PARA 287A.

For provision with respect to the contracting out of certain services see PARA 287B.

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## **288. Transfer of functions.**

For the purpose of enabling any person to carry on any activities for which provision is made by an agreement entered into by Transport for London<sup>1</sup> or by a transport subsidiary's agreement<sup>2</sup>, the Mayor of London<sup>3</sup> may by order<sup>4</sup> provide for any functions of Transport for London<sup>5</sup> under any statutory provision<sup>6</sup> to be exercisable by that person, whether to the exclusion of or concurrently with Transport for London<sup>7</sup>. Such an order may provide for the functions to cease to be so exercisable when the activities cease to be carried on by that person (whether by reason of the expiry or termination of the agreement or otherwise)<sup>8</sup>, and make such supplementary, incidental and consequential provision as the Mayor considers expedient<sup>9</sup>. The power of the Mayor to make such an order includes a power exercisable by order to revoke, amend or re-enact any such order<sup>10</sup>. A transfer of functions order made by the Mayor will not have effect unless and until it is confirmed by an order made by the Secretary of State<sup>11</sup>.

<sup>1</sup> See under the Greater London Authority Act 1999 s 156(2) or s 156(3): see PARA 287 ante. As to the establishment of Transport for London see PARA 270 ante.

<sup>2</sup> 'Transport subsidiary's agreement' means an agreement with a person ('the contractor') which is entered into by, or transferred to, a subsidiary of Transport for London, and which falls within *ibid* s 169(2) or s 169(3): s 169(1). An agreement falls within s 169(2) if it includes provision for the carrying on by the contractor, whether as agent for the subsidiary or otherwise, of any activities which Transport for London has power to carry on: s 169(2). Such an agreement may include provision with respect to the provision or financing of any public passenger transport services: s 169(2). An agreement falls within s 169(3) if it includes provision for the carrying on by the contractor of any activities which Transport for London does not have power to carry on and also provision for one or more of the following, namely: (1) the carrying on by the contractor of such activities as are mentioned in s 169(2); (2) the provision by the contractor to the subsidiary of services ancillary to the provision of public passenger transport services; and (3) the use by the contractor of land or other property owned by Transport for London or a subsidiary of Transport for London, or transferred to the contractor by Transport for London or a subsidiary of Transport for London, for the purposes of the agreement: s 169(3). For these purposes, 'subsidiary' has the same meaning as in the Companies Act 1985 s 736 (as substituted) (see COMPANIES vol 14 (2009) PARA 25): Greater London Authority Act 1999 s 424(1).

<sup>3</sup> As to the Mayor of London see PARA 81 ante.

<sup>4</sup> At the date at which this volume states the law no such orders had been made. See the text and note 11 *infra*.

<sup>5</sup> Any reference in the Greater London Authority Act 1999 s 158 to Transport for London includes a reference to a subsidiary of Transport for London: s 158(6).

<sup>6</sup> For the meaning of 'statutory provision' see PARA 275 note 2 ante.

<sup>7</sup> Greater London Authority Act 1999 s 158(1). Section 158 does not apply to any function of Transport for London under the Greater London Authority Act 1999 or any other statutory provision specifically amended by any provision of the Greater London Authority Act 1999: s 158(5).

<sup>8</sup> *Ibid* s 158(2)(a).

<sup>9</sup> *Ibid* s 158(2)(b).

<sup>10</sup> *Ibid* s 158(3).

<sup>11</sup> *Ibid* s 158(4). As to the Secretary of State see PARA 12 note 2 ante. As to the making of orders generally see PARA 13 ante.

## **UPDATE**

### **287-293 Formation of companies and agreements...control of subsidiaries**

As to the relaxation of contractual restrictions on Transport for London see PARA 287A.

For provision with respect to the contracting out of certain services see PARA 287B.

### **288 Transfer of functions**

NOTE 3--Greater London Authority Act 1999 s 424(1), definition of 'subsidiary' amended:  
SI 2009/1941.

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### **289. Acquisition of undertakings etc.**

Transport for London<sup>1</sup> may acquire any undertaking or part of an undertaking if the assets comprised in the undertaking or the part of the undertaking are wholly or mainly assets which Transport for London requires for the purposes of discharging any of its functions<sup>2</sup>. For the purposes of discharging any of its functions, Transport for London may subscribe for or acquire any securities of a body corporate<sup>3</sup>.

1 As to the establishment of Transport for London see PARA 270 ante.

2 Greater London Authority Act 1999 s 156(8), Sch 11 para 24.

3 Ibid Sch 11 para 25.

### **UPDATE**

#### **287-293 Formation of companies and agreements...control of subsidiaries**

As to the relaxation of contractual restrictions on Transport for London see PARA 287A.  
For provision with respect to the contracting out of certain services see PARA 287B.

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## **290. Research and development of policies.**

Transport for London<sup>1</sup> may do anything which appears to it to be practicable and desirable for the purpose of promoting:

- 437 (1) research into matters affecting, or arising out of, the exercise of the functions of Transport for London or any of its subsidiaries<sup>2</sup>; and
- 438 (2) the exploitation<sup>3</sup> of the results of any research into any such matter, whether or not promoted by Transport for London, and of anything resulting from any idea affecting, or arising out of, the exercise of any of those functions<sup>4</sup>.

Transport for London may exercise these powers by carrying out any research or work for that purpose itself or by arranging for it to be carried out or done by some other person with or without assistance, including financial assistance, from Transport for London<sup>5</sup>.

However, this provision does not authorise Transport for London, either directly or through a subsidiary<sup>6</sup> of Transport for London, to do any work which it would not otherwise have power to do<sup>7</sup>.

1 As to the establishment of Transport for London see PARA 270 ante.

2 Greater London Authority Act 1999 s 156(8), Sch 11 para 22(1)(a).

3 For these purposes, 'exploitation' means the doing of any work requisite to enable the results or, as the case may be, the thing in question to be turned to account: *ibid* Sch 11 para 22(2).

4 *Ibid* Sch 11 para 22(1)(b). As to the prohibition against Transport for London carrying on activities under Sch 11 para 22(1)(b), except through a subsidiary company or a company which Transport for London has formed or joined with others in forming under s 156(1) (see PARA 287 ante) see the Transport for London (Specified Activities) Order 2000, SI 2000/1548; and PARA 292 post.

5 Greater London Authority Act 1999 Sch 11 para 22(3).

6 As to the meaning of 'subsidiary' see PARA 288 note 2 ante.

7 Greater London Authority Act 1999 Sch 11 para 22(4).

## **UPDATE**

### **287-293 Formation of companies and agreements...control of subsidiaries**

As to the relaxation of contractual restrictions on Transport for London see PARA 287A.  
For provision with respect to the contracting out of certain services see PARA 287B.

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## **291. Supplementary powers.**

Transport for London<sup>1</sup> may do anything which in its opinion is necessary or expedient to facilitate the discharge by it of any of its functions, including the securing of the performance of any agreement entered into by it<sup>2</sup> or of any transport subsidiary's agreement<sup>3</sup>. Transport for London may do anything necessary for the purpose of fulfilling a contract which<sup>4</sup> has effect as if made by Transport for London, notwithstanding that Transport for London would not otherwise have power to do that thing<sup>5</sup>.

1 As to the establishment of Transport for London see PARA 270 ante.

2 Ie under Greater London Authority Act 1999 s 156: see PARA 287 ante.

3 See ibid s 156(8), Sch 11 para 32. Cf Sch 10 para 1(3) (see PARA 284 ante). For the meaning of 'transport subsidiary's agreement' see PARA 288 note 2 ante.

4 Ie by virtue of ibid s 300 (transition from London Regional Transport to Transport for London; continuity of repealed or revoked functions: see PARA 275 ante) or s 415 (continuity: see PARA 27 ante).

5 Ibid Sch 11 para 33.

## **UPDATE**

### **287-293 Formation of companies and agreements...control of subsidiaries**

As to the relaxation of contractual restrictions on Transport for London see PARA 287A.  
For provision with respect to the contracting out of certain services see PARA 287B.

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/4. TRANSPORT IN LONDON/(3) TRANSPORT FOR LONDON/(iv) Functions, Powers and Duties of Transport for London/A. GENERAL POWERS/292. Restriction on exercise of certain powers.

## **292. Restriction on exercise of certain powers.**

The Secretary of State<sup>1</sup> may by order made with the consent of the Treasury<sup>2</sup> provide that Transport for London<sup>3</sup> must not carry on such activities as are specified in the order except through a company<sup>4</sup> which is limited by shares and registered under the Companies Act 1985<sup>5</sup> and which is: (1) a subsidiary<sup>6</sup> of Transport for London<sup>7</sup>; or (2) a company which Transport for London formed, or joined with others in forming<sup>8</sup>, and which does not fall within head (1) above<sup>9</sup>. If it appears to the Secretary of State that Transport for London is carrying out, or proposes to carry out, otherwise than in compliance with such an order any activities specified in the order, he may give a direction to Transport for London requiring it to comply with the order within such period as may be specified for the purpose in the order<sup>10</sup>, and Transport for London will be under a duty to comply with such a direction<sup>11</sup>.

1 As to the Secretary of State see PARA 12 note 2 ante.

2 As to the Treasury see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARAS 512-517.

3 As to the establishment of Transport for London see PARA 270 ante.

4 For the meaning of 'company' see PARA 17 note 19 ante.

5 See generally COMPANIES.

6 As to the meaning of 'subsidiary' see PARA 288 note 2 ante.

7 Greater London Authority Act 1999 s 157(1)(a).

8 Ie by virtue of *ibid* s 156(1): see PARA 287 ante.

9 *Ibid* s 157(1). In exercise of this power the Transport for London (Specified Activities) Order 2000, SI 2000/1548, has been made. As to the making of orders generally see PARA 13 ante.

The order provides that 'specified activity' means an activity which: (1) may be carried on in the discharge of a function conferred on Transport for London by a provision of the Greater London Authority Act 1999 specified in the Transport for London (Specified Activities) Order 2000, SI 2000/1548, Schedule col (2), of which a general description is given in col (3); and (2) where a limitation is specified in col (4) of that Schedule in relation to such a provision, is carried on as so specified: see art 2(1). For these purposes, an activity is to be taken to be carried on in the discharge of a function if it is done in relation to that function by virtue of the Greater London Authority Act 1999 Sch 10 para 1(3) (incidental powers of Transport for London) (see PARA 284 ante) or Sch 11 para 32 (power of Transport for London to do anything necessary or expedient for the discharge of a function) (see PARA 291 ante): Transport for London (Specified Activities) Order 2000, SI 2000/1548, art 2(2). The activities specified are those under: (a) the Greater London Authority Act 1999 s 162 (making information available) (see PARA 295 post) for which a fee must be charged; (b) s 173(1) (providing or securing the provision of public passenger transport services to, from and within Greater London) (see PARA 299 post); (c) s 181(5) (providing or securing the provision of the London bus network) (see ROAD TRAFFIC vol 40(3) (2007 Reissue) PARA 1233); (d) s 256(1) (providing or securing the provision of amenities and facilities benefiting persons using any waterway) (see PARA 312 post); (e) Sch 11 para 1 (the carrying of passengers, luggage and other goods by any form of land or water transport) (see PARA 301 post); (f) Sch 11 para 2(1) (making arrangements for the provision of air transport services) (see PARA 301 post); (g) Sch 11 para 3(1) (the storage of goods before or after carriage) (see PARA 301 post) for which a fee must be charged; (h) Sch 11 para 3(2) (the provision of surplus storage facilities for goods held in connection with any function of Transport for London concerned with public transport) (see PARA 301 post) for which a fee must be charged; (i) Sch 11 para 4 (the making available of amenities or facilities, or of works constructed, in pursuance of an agreement under s 156(6) (see PARA 287 ante)) (see PARA 305 post) for which a fee must be charged; (j) Sch 11 para 5 (the provision of amenities and facilities for the users of any service provided in pursuance of public passenger transport functions) (see PARA 305 post) for which a fee must be charged; (k) Sch 11 para 6 (the management or operation of any amenity or



facility provided as mentioned in head (h) or head (i) supra) (see PARA 305 post) for which a fee must be charged; (l) Sch 11 para 8(1) (the manufacture and repair of spare parts and components or other supplementary machinery or equipment) (see PARA 308 post); (m) Sch 11 para 8(2) (the repair of vehicles or other equipment and the supply of necessary parts and components for vehicles or equipment) (see PARA 308 post); (n) Sch 11 para 9 (the provision of professional or technical advice or assistance) (see PARA 307 post) for which a fee must be charged; (o) Sch 11 para 10 (the entering into of reciprocal arrangements for the provision of ancillary services) (see PARA 307 post); (p) Sch 11 para 11 (the letting of vehicles on hire) (see PARA 309 post); (q) Sch 11 para 12(2) (the supply of surplus spare parts and components) (see PARA 309 post); (r) Sch 11 para 13(b) (the exploitation of surplus resources) (see PARA 309 post); (s) Sch 11 para 14 (the provision and maintenance of intermodal freight facilities) (see PARA 311 post); (t) Sch 11 para 15(1) (the development of land) (see PARA 314 post) otherwise than for the purposes of Transport for London's functions; (u) Sch 11 para 15(3) (the acquisition of land for the purpose of developing it for use) (see PARA 314 post) otherwise than for the purposes of Transport for London's functions; (v) Sch 11 para 16 (the granting of an interest in land which is used for the purposes of discharging any of Transport for London's functions) (see PARA 314 post) other than any such grant to a subsidiary; (w) Sch 11 para 17 (the acquisition of additional interests in land in order better to exploit an interest already held) (see PARA 314 post); (x) Sch 11 para 21(b) (the carrying on of activities which Transport for London would not otherwise have power to carry on, in the event of those activities ceasing to be carried on under an agreement under s 156(3) or a transport subsidiary's agreement) (see PARA 288 note 2 ante); (y) Sch 11 para 22(1)(b) (the exploitation of the results of any research or of anything resulting from any idea affecting, or arising out of, the exercise of any of the functions of Transport for London or its subsidiaries) (see PARA 290 ante) for which a fee must be charged; (z) Sch 11 para 28(1) (the provision and maintenance of a museum or the doing of anything expedient for the provision and maintenance of a museum) (see PARA 306 post); (aa) Sch 11 para 28(2) (charging for admission to a museum) (see PARA 306 post): Transport for London (Specified Activities) Order 2000, SI 2000/1548, Schedule. For these purposes, 'fee' does not include any charge which is made by Transport for London on terms which provide for the reimbursement of the whole or part of its costs only: art 2(3).

The specification of an activity in an order under the Greater London Authority Act 1999 s 157(1) will not prevent Transport for London from entering into or carrying out under s 156(2) or s 156(3) (see PARA 287 ante) an agreement with a person for the carrying on of that activity by that person, or affect the validity of such an agreement: s 157(2).

10 Ibid s 157(3)(a). As to the giving of directions see PARA 13 ante. If Transport for London does not comply with a direction under s 157(3) in the case of an activity to which the direction relates, Transport for London will be treated in respect of the carrying out of that activity as not being a local authority for the purposes of: (1) the Income and Corporation Taxes Act 1988 s 519 (as amended) (exemption of local authorities from income tax and corporation tax: see INCOME TAXATION); and (2) the Taxation of Chargeable Gains Act 1992 s 271 (as amended) (exemption of local authorities from capital gains tax: see CAPITAL GAINS TAXATION vol 5(1) (Reissue) PARA 234): Greater London Authority Act 1999 s 157(4).

11 Ibid s 157(3)(b). See note 10 supra.

## UPDATE

### 287-293 Formation of companies and agreements...control of subsidiaries

As to the relaxation of contractual restrictions on Transport for London see PARA 287A.

For provision with respect to the contracting out of certain services see PARA 287B.

### 292 Restriction on exercise of certain powers

NOTES 5, 9--Greater London Authority Act 1999 s 157(1) amended: SI 2009/1941.

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### **293. Control of subsidiaries.**

The powers of the Greater London Authority<sup>1</sup> and the powers of Transport for London<sup>2</sup> must be exercised so as to ensure that a subsidiary<sup>3</sup> of Transport for London does not<sup>4</sup>:

- 439 (1) do anything which Transport for London has no power to do, including anything which Transport for London has no power to do because the consent of the Secretary of State<sup>5</sup> has not been obtained<sup>6</sup>;
- 440 (2) do anything which the Mayor of London<sup>7</sup> has directed Transport for London not to do<sup>8</sup>; and
- 441 (3) except with the consent of the Mayor, raise money by the issue of shares or stock to any person other than Transport for London or any other subsidiary of Transport for London<sup>9</sup>.

1 As to the Greater London Authority see PARA 79 et seq ante.

2 As to the establishment of Transport for London see PARA 270 ante.

3 As to the meaning of 'subsidiary' see PARA 288 note 2 ante.

4 As to the power of Transport for London to form companies see PARA 287 ante.

5 As to the Secretary of State see PARA 12 note 2 ante.

6 Greater London Authority Act 1999 s 164(a).

7 As to the Mayor of London see PARA 81 ante.

8 Greater London Authority Act 1999 s 164(b). As to the giving of directions see PARA 13 ante.

9 Ibid s 164(c).

### **UPDATE**

#### **287-293 Formation of companies and agreements...control of subsidiaries**

As to the relaxation of contractual restrictions on Transport for London see PARA 287A.  
For provision with respect to the contracting out of certain services see PARA 287B.

### **293 Control of subsidiaries**

TEXT AND NOTES--As to the power of a qualifying Transport for London subsidiary to make arrangements for risk mitigation see the Transport for London Act 2008 s 49.

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## **294. Financial assistance and guarantees.**

Transport for London<sup>1</sup> may give financial assistance to any body or person in respect of expenditure incurred or to be incurred by that body or person in doing anything which in the opinion of Transport for London is conducive to the provision of safe, integrated, efficient and economic transport facilities or services to, from or within Greater London<sup>2</sup>. Such financial assistance may be given by way of grant, loan or other payment<sup>3</sup>. The financial assistance that may be given to any London authority<sup>4</sup> includes in particular assistance in respect of any expenditure incurred or to be incurred by the authority in discharging any function of a highway authority<sup>5</sup> or traffic authority<sup>6</sup>. In deciding whether to give financial assistance to a London authority, and if so the amount or nature of any such assistance, the matters to which Transport for London may have regard include any financial assistance or financial authorisation<sup>7</sup> previously given to the authority by any body or person<sup>8</sup>, and the use made by the authority of such assistance or authorisation<sup>9</sup>. Financial assistance may be given subject to such conditions as Transport for London considers appropriate, including, in the case of a grant, conditions for repayment in whole or in part in specified circumstances<sup>10</sup>.

Transport for London may guarantee to discharge any financial obligation of:

- 442 (1) a subsidiary<sup>11</sup> of Transport for London<sup>12</sup>;
- 443 (2) any person, other than such a subsidiary, with whom Transport for London has entered into an agreement<sup>13</sup>, where the guarantee is given for the purpose of enabling that person to carry out the agreement<sup>14</sup>; or
- 444 (3) any person, other than such a subsidiary, with whom such a subsidiary has entered into a transport subsidiary's agreement<sup>15</sup>, where the guarantee is given for the purpose of enabling that person to carry out the agreement<sup>16</sup>.

Transport for London may, for the purposes of discharging any of its functions, guarantee to discharge any financial obligation incurred or to be incurred by any person for the purposes of an undertaking carried on by him<sup>17</sup>, or, where the person is a body corporate, an undertaking carried on by a subsidiary of that body corporate<sup>18</sup>. A guarantee may be subject to such conditions as Transport for London considers appropriate<sup>19</sup>. Transport for London may enter into arrangements with another person under which that person gives a guarantee which Transport for London has power to give<sup>20</sup>.

Any specific power conferred on Transport for London by or by virtue of any provision of the Greater London Authority Act 1999 to make any loan or give any guarantee or to subscribe for or acquire any securities does not affect the power of Transport for London:

- 445 (a) to lend money by way of investment or to subscribe for or acquire securities by way of investment<sup>21</sup>; or
- 446 (b) to leave outstanding any loan made or guarantee given, or to retain any securities acquired, by London Regional Transport or by any predecessor in title of London Regional Transport<sup>22</sup>.

<sup>1</sup> As to the establishment of Transport for London see PARA 270 ante.

2 Greater London Authority Act 1999 s 159(1). Section 159 is without prejudice to any other power of Transport for London: s 159(9). The annual report of Transport for London must deal with any financial assistance given under s 159: see s 161(1), (2)(c); and PARA 295 post.

3 Ibid s 159(2).

4 For these purposes, 'London authority' means any London borough council or the Common Council of the City of London: ibid s 159(7). As to the Common Council of the City of London see PARA 51 et seq ante.

5 For these purposes, 'highway authority' has the same meaning as in the Highways Act 1980 (see in particular ss 1-9 (as amended)) (see HIGHWAYS, STREETS AND BRIDGES vol 21 (2004 Reissue) PARA 49): Greater London Authority Act 1999 s 159(7).

6 Ibid s 159(3). For these purposes, 'traffic authority' has the same meaning as in the Road Traffic Regulation Act 1984 (see s 121A (as added and amended) and s 142(1) (definition as added) (see HIGHWAYS, STREETS AND BRIDGES vol 21 (2004 Reissue) PARA 812)): Greater London Authority Act 1999 s 159(7).

7 For these purposes, 'financial authorisation' means authorisation allowing the authority to incur financial obligations: ibid s 159(5).

8 Ibid s 159(4)(a).

9 Ibid s 159(4)(b).

10 Ibid s 159(6).

11 As to the meaning of 'subsidiary' see PARA 288 note 2 ante.

12 Greater London Authority Act 1999 s 160(1)(a). The annual report of Transport for London must deal with any financial assistance given under s 160(1), (2): see s 161(1), (2)(d); and PARA 295 post. Section 160 is without prejudice to any other power of Transport for London: s 160(6).

13 Ie by virtue of ibid s 156(2) or s 156(3): see PARA 287 ante.

14 Ibid s 160(1)(b). See note 12 supra.

15 For the meaning of 'transport subsidiary's agreement' see PARA 288 note 2 ante.

16 Greater London Authority Act 1999 s 160(1)(c). See note 12 supra.

17 Ibid s 160(2)(a). See note 12 supra.

18 Ibid s 160(2)(b). See note 12 supra.

19 Ibid s 160(3).

20 Ibid s 160(4). Where Transport for London enters into arrangements by virtue of s 160(4), the arrangements may provide for Transport for London to indemnify the person who gives the guarantee: s 160(5). The annual report of Transport for London must deal with any arrangements entered into under s 160(4) and any indemnities given under s 160(5): see s 161(1), (2)(e), (f); and PARA 295 post.

21 Ibid s 156(8), Sch 11 para 30(a).

22 Ibid Sch 11 para 30(b).

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## **295. Reports and information.**

Transport for London<sup>1</sup> must, as soon as possible after the end of each financial year<sup>2</sup>, make to the Greater London Authority<sup>3</sup> a report on the exercise and performance by Transport for London of its functions during the year<sup>4</sup>. The report must deal with:

- 447 (1) the contribution made by Transport for London towards the implementation of the transport strategy<sup>5</sup>;
- 448 (2) the activities of any subsidiaries<sup>6</sup> of Transport for London, so far as relevant to the performance of the functions of Transport for London during the year in question<sup>7</sup>;
- 449 (3) any financial assistance given<sup>8</sup>;
- 450 (4) any guarantees given<sup>9</sup>;
- 451 (5) any arrangements entered into<sup>10</sup>; and
- 452 (6) any indemnities given<sup>11</sup>.

The report in respect of any financial year must include such information as the Mayor of London<sup>12</sup> may from time to time specify in writing with respect to any matter the report is required<sup>13</sup> to deal with<sup>14</sup>.

Transport for London must publish any such report<sup>15</sup>, and a copy must be kept available for the appropriate period<sup>16</sup> by the Mayor for inspection by any person on request free of charge at the principal offices of the Greater London Authority at reasonable hours<sup>17</sup>. A copy of any such report, or any part of any such report, must be supplied to any person on request during the appropriate period for such reasonable fee as the Mayor may determine<sup>18</sup>.

Transport for London must make available such information<sup>19</sup> as it thinks fit which relates to public passenger transport services provided to, from and within Greater London<sup>20</sup>, and which is required by members of the general public to assist in deciding what use to make of such services<sup>21</sup>. The information must be made available, in such manner as Transport for London thinks fit, to the general public, and to such other persons as Transport for London thinks fit<sup>22</sup>. Transport for London may make such charges as it thinks fit for information which it makes available, but no such charge may be made if the information relates to public passenger transport services provided exclusively by Transport for London or any of its subsidiaries<sup>23</sup>, or by other persons under any transport subsidiary's agreement<sup>24</sup> or under agreements<sup>25</sup> entered into by Transport for London<sup>26</sup>.

1 As to the establishment of Transport for London see PARA 270 ante.

2 For the meaning of 'financial year' see PARA 131 note 21 ante.

3 As to the Greater London Authority see PARA 79 et seq ante.

4 Greater London Authority Act 1999 s 161(1). As to the duty of Transport for London to include a statement about the free travel scheme in its annual report for any year in which the free travel scheme has effect see PARA 397 post.

5 Ibid s 161(2)(a). As to the transport strategy see PARA 263 ante.

6 As to the meaning of 'subsidiary' see PARA 288 note 2 ante.

- 7 Greater London Authority Act 1999 s 161(2)(b).
- 8 Ibid s 161(2)(c). The text refers to any financial assistance given under s 159: see PARA 294 ante.
- 9 Ibid s 161(2)(d). The text refers to any guarantees given under s 160(1), (2): see PARA 294 ante.
- 10 Ibid s 161(2)(e). The text refers to arrangements entered into under s 160(4): see PARA 294 ante.
- 11 Ibid s 161(2)(f). The text refers to indemnities given by virtue of s 160(5): see PARA 294 ante.
- 12 As to the Mayor of London see PARA 81 ante.
- 13 Ie by virtue of the Greater London Authority Act 1999 s 161(1) or s 161(2): see the text and notes 1-11 supra.
- 14 Ibid s 161(3).
- 15 Ibid s 161(4).
- 16 For these purposes, 'the appropriate period' is the period of six years beginning with the date of publication of the report pursuant to ibid s 161: s 161(7).
- 17 Ibid s 161(5).
- 18 Ibid s 161(6).
- 19 As to the prohibition against Transport for London carrying on activities under ibid s 162 (see the text and notes 20-26 infra), except through a subsidiary company or a company which Transport for London has formed or joined with others in forming under s 156(1) (see PARA 287 ante) see the Transport for London (Specified Activities) Order 2000, SI 2000/1548; and PARA 292 ante.
- 20 Greater London Authority Act 1999 s 162(1)(a). As to Greater London see PARA 29 ante. As to public passenger transport see PARA 299 post.
- 21 Ibid s 162(1)(b).
- 22 Ibid s 162(2).
- 23 Ibid s 162(3)(a).
- 24 For the meaning of 'transport subsidiary's agreement' see PARA 288 note 2 ante.
- 25 Ie agreements entered into under the Greater London Authority Act 1999 s 156(2) or s 156(3): see PARA 287 ante.
- 26 Ibid s 162(3).

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## **296. Power to promote or oppose Bills in Parliament.**

Transport for London<sup>1</sup> may promote a local Bill in Parliament<sup>2</sup>, and may oppose any local Bill in Parliament<sup>3</sup>. Transport for London may only promote a local Bill if the Greater London Authority<sup>4</sup> gives its written consent to the Bill, and confirms that consent in writing as soon as practicable after the expiration of 14 days after the Bill has been deposited in Parliament<sup>5</sup>. If the Authority does not confirm the consent, the Authority must give notice of that fact to Transport for London, which must take all necessary steps for the withdrawal of the Bill<sup>6</sup>.

Transport for London may oppose a local Bill only if the Authority gives its written consent to Transport for London to oppose the Bill<sup>7</sup>. If Transport for London deposits a petition against a Bill in Parliament, but the consent so required has not been given before the end of the period of 30 days following the day on which the petition is deposited, Transport for London must take all necessary steps for the withdrawal of the petition<sup>8</sup>.

These functions are functions of the Authority which are exercisable by the Mayor of London<sup>9</sup> acting on behalf of the Authority<sup>10</sup>.

1 As to the establishment of Transport for London see PARA 270 ante.

2 Greater London Authority Act 1999 s 167(1)(a). Without prejudice to s 167(2)-(4) (see the text and notes 4-6 infra), the functions conferred on Transport for London by s 167(1)(a) are exercisable subject to, and in accordance with, the provisions of Sch 13 (see PARA 297 post): s 167(5). As to the promotion of Bills in Parliament see PARLIAMENT vol 34 (Reissue) PARA 845 et seq.

3 Ibid s 167(1)(b).

4 As to the Greater London Authority see PARA 79 et seq ante.

5 Greater London Authority Act 1999 s 167(2).

6 Ibid s 167(3). If the Authority, in giving notice under s 167(3), states that it confirms its consent to the Bill if provisions specified in the notice are omitted or are amended as so specified, Transport for London may, instead of withdrawing the Bill pursuant to s 167(3), take all necessary steps for the omission or, as the case may be, the amendment of the provisions in question in accordance with the notice: s 167(4).

7 Ibid s 167(6).

8 Ibid s 167(7).

9 As to the Mayor of London see PARA 81 ante.

10 Greater London Authority Act 1999 s 167(8). Before exercising the functions conferred on the Authority by s 167(2)(a), (b), (4) or s 167(6), the Mayor must consult the Assembly: s 167(9). As to the London Assembly see PARA 82 et seq ante.

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## **297. Procedural requirements for the promotion of Bills in Parliament.**

No Bill may be deposited in Parliament by virtue of Transport for London's<sup>1</sup> power to promote local Bills in Parliament<sup>2</sup> until the requirements as to consultation<sup>3</sup> have been complied with<sup>4</sup>. The requirements as to consultation are that Transport for London must:

- 453 (1) prepare a draft of the proposed Bill<sup>5</sup>;
- 454 (2) send copies of the draft Bill to<sup>6</sup>: (a) the Mayor of London<sup>7</sup>; (b) the London Assembly<sup>8</sup>; (c) every London borough council<sup>9</sup>; and (d) the Common Council of the City of London<sup>10</sup>; and
- 455 (3) consult those bodies and persons about the draft Bill<sup>11</sup>.

Where Transport for London sends copies of the draft Bill to those bodies and persons<sup>12</sup>, it must also give those bodies and persons notice<sup>13</sup> of the time within which, and the place at which, they may make representations about the draft Bill<sup>14</sup>.

Throughout the consultation period<sup>15</sup>, Transport for London must take such steps as in its opinion will give adequate publicity to the draft Bill<sup>16</sup>. A copy of the draft Bill must be kept available by Transport for London for inspection by any person on request free of charge at the principal offices of Transport for London<sup>17</sup>, and at such other places as Transport for London considers appropriate<sup>18</sup>, at reasonable hours throughout the consultation period<sup>19</sup>. A copy of the draft Bill, or of any part of the draft Bill, must be supplied to any person on request during the consultation period for such reasonable fee as Transport for London may determine<sup>20</sup>.

If, after the requirements as to consultation<sup>21</sup> have been complied with, a Bill is deposited in Parliament<sup>22</sup>, that Bill must be in the form of the draft Bill, either as originally prepared or as modified to take account of representations made<sup>23</sup> pursuant to the requirements as to consultation, other representations made within the consultation period, or other material considerations<sup>24</sup>.

If a Bill proposed to be deposited in Parliament<sup>25</sup> contains provisions affecting the exercise of statutory functions<sup>26</sup> by a London local authority<sup>27</sup>, the Bill must not be deposited in Parliament unless: (i) in a case where the exercise of statutory functions of one London local authority is affected, that authority has given its written consent to the Bill in the form in which it is to be so deposited<sup>28</sup>; or (ii) in a case where the exercise of statutory functions of two or more London local authorities is affected, at least 90 per cent of all London local authorities have given their written consent to the Bill in that form<sup>29</sup>.

Where a Bill is deposited<sup>30</sup> in Parliament<sup>31</sup>, during the period of 14 days following the day on which the deposited Bill is so deposited, Transport for London must take such steps as in its opinion will give adequate publicity to the Bill<sup>32</sup>. A copy of the deposited Bill must be kept available by Transport for London for inspection by any person on request free of charge at the principal offices of Transport for London, and at such other places as Transport for London considers appropriate, at reasonable hours throughout the period while the Bill is in Parliament<sup>33</sup>. A copy of the deposited Bill, or of any part of the deposited Bill, must be supplied to any person on request during that period for such reasonable fee as Transport for London may determine<sup>34</sup>.



- 1 As to the establishment of Transport for London see PARA 270 ante.
- 2 Ie the power conferred by the Greater London Authority Act 1999 s 167(1)(a): see PARA 296 ante.
- 3 Ie the requirements of ibid s 167(5), Sch 13 para 2: see the text and notes 5-14 infra.
- 4 Ibid s 167(5), Sch 13 para 1.
- 5 Ibid Sch 13 para 2(1)(a).
- 6 Ibid Sch 13 para 2(1)(b).
- 7 Ibid Sch 13 para 2(2)(a). As to the Mayor of London see PARA 81 ante.
- 8 Ibid Sch 13 para 2(2)(b). As to the London Assembly see PARA 82 ante.
- 9 Ibid Sch 13 para 2(2)(c).
- 10 Ibid Sch 13 para 2(2)(d). As to the Common Council of the City of London see PARA 51 et seq ante.
- 11 Ibid Sch 13 para 2(1)(c).
- 12 Ie pursuant to ibid Sch 13 para 2(1)(b): see head (2) in the text.
- 13 For the meaning of 'notice' see PARA 83 note 10 ante.
- 14 Greater London Authority Act 1999 Sch 13 para 2(3).
- 15 'The consultation period' means the period which begins with the first day after the requirements of ibid Sch 13 para 2(1)(b) (see head (2) in the text) have been complied with, and ends with the time notified pursuant to Sch 13 para 2(3) (see the text to notes 12-14 supra): Sch 13 paras 3(4), 4(2).
- 16 Ibid Sch 13 para 3(1).
- 17 Ibid Sch 13 para 3(2)(a).
- 18 Ibid Sch 13 para 3(2)(b).
- 19 Ibid Sch 13 para 3(2).
- 20 Ibid Sch 13 para 3(3).
- 21 Ie the requirements of ibid Sch para 2: see the text and notes 5-14 supra.
- 22 Ie by virtue of ibid s 167(1)(a): see PARA 296 ante.
- 23 Ie pursuant to ibid Sch 13 para 2: see the text and notes 5-14 supra.
- 24 Ibid Sch 13 para 4(1).
- 25 Ie by virtue of ibid s 167(1)(a): see PARA 296 ante.
- 26 For the meaning of 'statutory functions' see PARA 149 note 8 ante.
- 27 For these purposes, 'London local authority' means a London borough council or the Common Council of the City of London: Greater London Authority Act 1999 Sch 13 para 5(2). As to the London boroughs and their councils see PARAS 30, 35-39, 59 et seq ante.
- 28 Ibid Sch 13 para 5(1)(a).
- 29 Ibid Sch 13 para 5(1)(b).
- 30 Ie by virtue of ibid s 167(1)(a): see PARA 296 ante.
- 31 Ibid Sch 13 para 6(1).
- 32 Ibid Sch 13 para 6(2).

33 Ibid Sch 13 para 6(3).

34 Ibid Sch 13 para 6(4).

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## **B. SERVICES AND FACILITIES**

### **298. Co-operation with the Strategic Rail Authority and other persons.**

It is the duty of Transport for London<sup>1</sup> (either acting directly, or acting through a subsidiary<sup>2</sup>) and the Strategic Rail Authority<sup>3</sup> to co-operate with one another in the exercise and performance of their respective functions for the purpose of<sup>4</sup>:

- 456 (1) co-ordinating the passenger transport services for persons travelling to, from and within Greater London<sup>5</sup> which are provided by Transport for London or any of its subsidiaries, and which are provided under franchise agreements, or whose provision is secured<sup>6</sup> by the Strategic Rail Authority<sup>7</sup>; and
- 457 (2) securing or facilitating the duties<sup>8</sup> of Transport for London<sup>9</sup>,

and to afford to one another such information as to the transport services mentioned in head (1) above as may reasonably be required for those purposes<sup>10</sup>. For the purposes of the co-operation required, Transport for London and the Strategic Rail Authority may enter into such arrangements with one another with respect to the exercise and performance of their respective functions on such terms as may appear to them to be expedient<sup>11</sup>.

Where a public passenger transport service is provided under either an agreement entered into by Transport for London<sup>12</sup>, or a transport subsidiary's agreement<sup>13</sup>, by a person other than a subsidiary of Transport for London, it is the duty of that person and the other party to the agreement in question, either acting directly, or acting indirectly through subsidiaries of theirs, to co-operate with one another in the exercise and performance of their respective functions for the purposes of<sup>14</sup> the co-ordinating of passenger transport services, and the securing of, or the facilitating of, the proper discharge of the duties<sup>15</sup> of Transport for London<sup>16</sup>.

1 As to the establishment of Transport for London see PARA 270 ante.

2 As to the meaning of 'subsidiary' see PARA 288 note 2 ante.

3 As to the Strategic Rail Authority see RAILWAYS, INLAND WATERWAYS AND CROSS-COUNTRY PIPELINES vol 39(1A) (Reissue) PARA 46 et seq.

4 Greater London Authority Act 1999 s 175(1) (s 175(1), (2), (3) amended by the Transport Act 2000 s 215, Sch 16 paras 58, 59). The references in the Greater London Authority Act 1999 s 175(1), (2) to the functions of the Strategic Rail Authority must be taken as a reference to its functions under the Railways Act 1993 ss 23-31 (as amended) (franchising of passenger services) (see RAILWAYS, INLAND WATERWAYS AND CROSS-COUNTRY PIPELINES vol 39(1A) (Reissue) PARA 130 et seq), and the duties imposed upon it by s 37 and s 38 (both as amended) (discontinuance of railway passenger services) (see RAILWAYS, INLAND WATERWAYS AND CROSS-COUNTRY PIPELINES vol 39(1A) (Reissue) PARA 147), to secure the provision of services: Greater London Authority Act 1999 s 175(3) (as so amended).

5 As to Greater London see PARA 29 ante.

6 Ie pursuant to the Railways Act 1993 s 30 (as substituted), s 37 or s 38 (both as amended): see RAILWAYS, INLAND WATERWAYS AND CROSS-COUNTRY PIPELINES vol 39(1A) (Reissue) PARAS 138, 147.

7 Greater London Authority Act 1999 s 175(1)(a) (as amended: see note 4 supra).

8 le under ibid s 154(3): see PARA 270 ante.

9 Ibid s 175(1)(b).

10 Ibid s 175(1).

11 Ibid s 175(2) (as amended: see note 4 supra).

12 le under ibid s 156(2) or s 156(3)(a): see PARA 287 ante.

13 For the meaning of 'transport subsidiary's agreement' see PARA 288 note 2 ante.

14 Greater London Authority Act 1999 s 176(1). The duty of co-operation imposed by s 176(1) requires both parties to an agreement under s 156(2) or s 156(3)(a) (see PARA 287 ante) or to a transport subsidiary's agreement to provide to one another such information as to their services as may reasonably be required for the purposes specified in s 176(2) (see the text and notes 15-16 infra): s 176(3).

15 le the duties under ibid s 154(3): see PARA 270 ante.

16 Ibid s 176(2).

## UPDATE

### 298 Co-operation with the Strategic Rail Authority and other persons

TEXT AND NOTES--As to the abolition of the Strategic Rail Authority and the transfer of its functions see Railways Act 2005 Pt 1; SI 2006/2925.

TEXT AND NOTES 1-10--In the Greater London Authority Act 1999 s 175(1) for 'Strategic Rail Authority', where first occurring, substitute 'Secretary of State' and omit the words 'and to afford to one another such information as to the transport services mentioned in head (1) above as may reasonably be required for those purposes': Railways Act 2005 s 15(2). Before (1) issuing an invitation to tender for a franchise agreement in a case in which the services to be provided under the agreement are or include London railway passenger services, or (2) entering into a franchise agreement in respect of such services in a case in which no such invitation has been issued, the Secretary of State must consult Transport for London: Greater London Authority Act 1999 s 175(1A) (added by Railways Act 2005 s 15(3)). The Secretary of State and Transport for London must each provide to the other any information which (a) the other reasonably requires for a purpose mentioned in the Greater London Authority Act 1999 s 175(1)(a) or (b); and (b) is information which it would have been lawful for him or (as the case may be) it to disclose apart from s 175(1B): s 175(1B) (as so added). A reference in s 175 to a London railway passenger service is a reference to (i) a service for the carriage of passengers by railway between places in Greater London; or (ii) a service for the carriage of passengers by railway between places in Greater London and places outside Greater London: s 175(3A) (added by Railways Act 2005 s 15(7)). Expressions used in the Greater London Authority Act 1999 s 175 and the Railways Act 1993 Pt 1 have the same meanings in the Greater London Authority Act 1999 s 175 as in the Railways Act 1993 Pt 1: Greater London Authority Act 1999 s 175(3B) (as so added).

NOTE 4--In the Greater London Authority Act 1999 s 175(3), for 'Strategic Rail Authority', 'its' and 'it' substitute, respectively, 'Secretary of State', 'his' and 'him': Railways Act 2005 s 15(6). 1999 Act s 175(3) further amended: 2005 Act Sch 12 para 14(2)(b).

TEXT AND NOTE 7--Greater London Authority Act 1999 s 175(1)(a) further amended: Railways Act 2005 Sch 12 para 14(2)(a).

TEXT AND NOTE 11--In the Greater London Authority Act 1999 s 175(2) for 'Strategic Rail Authority' substitute 'Secretary of State': Railways Act 2005 s 15(4). Those arrangements may include arrangements under which sums become due from

Transport for London to the Secretary of State (1) in respect of London railway passenger services; (2) in respect of station services provided in connection with such services; or (3) in respect of bus substitution services provided as alternatives for London railway passenger services: Greater London Authority Act 1999 s 175(2A) (added by Railways Act 2005 s 15(5)).

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/4. TRANSPORT IN LONDON/(3) TRANSPORT FOR LONDON/(iv) Functions, Powers and Duties of Transport for London/B. SERVICES AND FACILITIES/299. Provision of public passenger transport.

### **299. Provision of public passenger transport.**

Transport for London<sup>1</sup> may provide or secure the provision of public passenger transport services to, from or within Greater London<sup>2</sup>. Any agreement entered into by Transport for London<sup>3</sup> may in particular provide for:

- 458 (1) combined services for the through carriage of passengers or goods to be provided by Transport for London or any of its subsidiaries<sup>4</sup> and any other party to the agreement, the quoting of through rates and the pooling of receipts and expenses in respect of such services<sup>5</sup>;
- 459 (2) securing efficiency, economy and safety of operation in the provision of any public passenger transport services in pursuance of the agreement<sup>6</sup>;
- 460 (3) the exercise by Transport for London, in accordance with the agreement, of control over fares in respect of any such services and their routes and frequency of operation and over charges in respect of any other facilities provided in pursuance of the agreement<sup>7</sup>; and
- 461 (4) the making of payments by Transport for London to any other party to the agreement<sup>8</sup>.

1 As to the establishment of Transport for London see PARA 270 ante.

2 Greater London Authority Act 1999 s 173(1). As to Greater London see PARA 29 ante. As to the prohibition against Transport for London carrying on activities under s 173(1), except through a subsidiary company or a company which Transport for London has formed or joined with others in forming under s 156(1) (see PARA 287 ante) see the Transport for London (Specified Activities) Order 2000, SI 2000/1548; and PARA 292 ante. As to the meaning of 'subsidiary' see PARA 288 note 2 ante.

3 Ie by virtue of the Greater London Authority Act 1999 s 156(2) or s 156(3)(a): see PARA 287 ante.

4 For these purposes, 'subsidiary' has the same meaning as in the Companies Act 1985 s 736 (as substituted) (see COMPANIES vol 14 (2009) PARA 25): Greater London Authority Act 1999 s 424(1).

5 Ibid s 173(2)(a). Section 173(2) is without prejudice to s 176 (co-operation with other persons: see PARA 298 ante).

6 Ibid s 173(2)(b). See note 5 supra.

7 Ibid s 173(2)(c). See note 5 supra.

8 Ibid s 173(2)(d). See note 5 supra.

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/4. TRANSPORT IN LONDON/(3) TRANSPORT FOR LONDON/(iv) Functions, Powers and Duties of Transport for London/B. SERVICES AND FACILITIES/300. Provision of extra passenger transport services and facilities.

### **300. Provision of extra passenger transport services and facilities.**

The council of a London borough and the Common Council of the City of London<sup>1</sup> each has power to enter into and carry out agreements with (1) Transport for London<sup>2</sup>; (2) the Strategic Rail Authority<sup>3</sup>; or (3) any person who is the holder of a passenger licence<sup>4</sup>, a network licence<sup>5</sup> or a station licence<sup>6</sup>, with respect to the provision or retention, and financing, of public passenger transport services and facilities which would not be available apart from any such agreement<sup>7</sup>. Transport for London and the Strategic Rail Authority each has power to enter into and carry out agreements with the council of a London borough or the Common Council of the City of London with respect to the provision or retention, and financing, of public passenger transport services and facilities which would not be available apart from any such agreement<sup>8</sup>. The terms of any such agreement<sup>9</sup> will be such as may be agreed between the parties to the agreement<sup>10</sup>.

1 As to the London boroughs and their councils see PARAS 30, 35-39, 59 et seq ante. As to the Common Council of the City of London see PARA 51 et seq ante.

2 Greater London Authority Act 1999 s 177(1)(a). As to the establishment of Transport for London see PARA 270 ante.

3 As to the Strategic Rail Authority see RAILWAYS, INLAND WATERWAYS AND CROSS-COUNTRY PIPELINES vol 39(1A) (Reissue) PARA 46 et seq.

4 For these purposes, 'passenger licence' has the same meaning as in the Railways Act 1993 Pt I (ss 1-83) (as amended; prospectively further amended) (see RAILWAYS, INLAND WATERWAYS AND CROSS-COUNTRY PIPELINES vol 39(1A) (Reissue) PARA 83): Greater London Authority Act 1999 s 177(4).

5 For these purposes, 'network licence' has the same meaning as in the Railways Act 1993 Pt I (as amended; prospectively further amended) (see RAILWAYS, INLAND WATERWAYS AND CROSS-COUNTRY PIPELINES vol 39(1A) (Reissue) PARA 83): Greater London Authority Act 1999 s 177(4).

6 Ibid s 177(1)(b) (s 177(1)(b), (2) amended by the Transport Act 2000 s 215, Sch 16 para 60). For these purposes, 'station licence' has the same meaning as in the Railways Act 1993 Pt I (as amended; prospectively further amended) (see RAILWAYS, INLAND WATERWAYS AND CROSS-COUNTRY PIPELINES vol 39(1A) (Reissue) PARA 83): Greater London Authority Act 1999 s 177(4).

7 Ibid s 177(1).

8 Ibid s 177(2) (as amended: see note 6 supra).

9 Ie under ibid s 177.

10 Ibid s 177(3).

### **UPDATE**

### **300 Provision of extra passenger transport services and facilities**

TEXT AND NOTE 3--As to the abolition of the Strategic Rail Authority and the transfer of its functions see Railways Act 2005 Pt 1; SI 2006/2925.

TEXT AND NOTES 6, 8--In Greater London Authority Act 1999 s 177(1)(b), (2) for 'Strategic Rail Authority' now read 'Secretary of State': Railways Act 2005 Sch 12 para 14(3).



Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/4. TRANSPORT IN LONDON/(3) TRANSPORT FOR LONDON/(iv) Functions, Powers and Duties of Transport for London/B. SERVICES AND FACILITIES/301. Carriage and storage.

### **301. Carriage and storage.**

Transport for London<sup>1</sup> may carry passengers by any form of land or water transport, including in either case hovercraft, within, to or from Greater London<sup>2</sup>. Transport for London may so carry passengers between places outside Greater London, in so far as Transport for London considers it requisite to do so (1) in connection with the exercise of its power<sup>3</sup> to carry passengers within, to or from Greater London<sup>4</sup>; or (2) in order to avoid an interruption of services provided by London Regional Transport in exercise its powers<sup>5</sup> in relation to the provision of services outside Greater London to avoid the interruption of services formerly provided by the London Transport Executive under the Transport (London) Act 1969<sup>6</sup>. Transport for London may also carry luggage and other goods<sup>7</sup>.

Transport for London may enter into arrangements with any person providing passenger transport services by air for the provision of such services between places in Greater London or between such places and places outside Greater London<sup>8</sup>.

Transport for London may enter into arrangements with any person operating a business of providing passenger vehicles for hire (whether with or without the services of a driver, and whether under private hire arrangements or by way of plying for public hire), for that person to make passenger vehicles operated by him available for hire, or for use in accordance with the arrangements, on such terms and in such manner as may be provided for by the arrangements, in or between places in Greater London or between such places and places outside Greater London<sup>9</sup>. Any such arrangements may include provision for the making of payments by Transport for London to the other party to the arrangements<sup>10</sup>.

Transport for London may store within Greater London or in any premises of Transport for London outside Greater London goods which have been or are to be carried by Transport for London or a subsidiary<sup>11</sup> of Transport for London<sup>12</sup>. So far as any premises provided for the purpose of discharging that or any other function of Transport for London are not required for that purpose, Transport for London may use those premises to provide facilities for the storage of other goods<sup>13</sup>.

1 As to the establishment of Transport for London see PARA 270 ante.

2 Greater London Authority Act 1999 s 156(8), Sch 11 para 1(1). As to Greater London see PARA 29 ante. Neither Transport for London nor any subsidiary of it is to be regarded as a common carrier by rail or inland waterway: Sch 11 para 31(1). As to common carriers see CARRIAGE AND CARRIERS vol 7 (2008) PARAS 1, 3 et seq.

As to the prohibition against Transport for London carrying on activities under Sch 11 paras 1, 2(1), 3(1), (2), except through a subsidiary company or a company which Transport for London has formed or joined with others in forming under s 156(1) (see PARA 287 ante) see the Transport for London (Specified Activities) Order 2000, SI 2000/1548; and PARA 292 ante.

3 Ie its power under the Greater London Authority Act 1999 Sch 11 para 1(1): see the text to notes 1-2 supra.

4 Ibid Sch 11 para 1(2)(a). See note 2 supra.

5 Ie the powers of London Regional Transport under the London Regional Transport Act 1984 s 3(9), Sch 2 para 1(2)(b) (prospectively repealed). As to the transition from London Regional Transport to Transport for London see PARAS 271-277 ante.

6 Greater London Authority Act 1999 Sch 11 para 1(2)(b). See note 2 supra.

- 7 Ibid Sch 11 para 1(3). See note 2 supra.
- 8 Ibid Sch 11 para 2(1). See note 2 supra.
- 9 Ibid Sch 11 para 2(2), which is expressed to be without prejudice to s 156 (see PARA 287 ante).
- 10 Ibid Sch 11 para 2(3).
- 11 As to the meaning of 'subsidiary' see PARA 288 note 2 ante.
- 12 Greater London Authority Act 1999 Sch 11 para 3(1). See note 2 supra.
- 13 Ibid Sch 11 para 3(2). See note 2 supra.

## **UPDATE**

### **301 Carriage and storage**

TEXT AND NOTES--As to regulation on navigation on the River Thames, see PARAS 500C et seq.

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/4. TRANSPORT IN LONDON/(3) TRANSPORT FOR LONDON/(iv) Functions, Powers and Duties of Transport for London/B. SERVICES AND FACILITIES/302. Charges for facilities and services.

### **302. Charges for facilities and services.**

Transport for London<sup>1</sup> may make, or waive, such charges for services and facilities and make the use of services and facilities subject to such terms and conditions, as it thinks fit<sup>2</sup>. This power is subject only to the provisions of the Greater London Authority Act 1999 and to any local enactment so far as that local enactment expressly provides for freedom from charges or otherwise prohibits the making of any charge, as distinct from limiting the discretion of persons carrying on any particular undertaking as to the charges of any description to be made by them<sup>3</sup>.

1 As to the establishment of Transport for London see PARA 270 ante.

2 Greater London Authority Act 1999 s 156(8), Sch 11 para 7(1).

3 Ibid Sch 11 para 7(2).

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/4. TRANSPORT IN LONDON/(3) TRANSPORT FOR LONDON/(iv) Functions, Powers and Duties of Transport for London/B. SERVICES AND FACILITIES/303. Structure of fares and services.

### **303. Structure of fares and services.**

The Mayor of London<sup>1</sup> must exercise his power<sup>2</sup> to issue guidance and directions to Transport for London<sup>3</sup> on the exercise of its powers so as to ensure that the following matters are determined<sup>4</sup>:

- 462 (1) the general level and structure of the fares to be charged for public passenger transport services provided by Transport for London or by any other person in pursuance of any agreement entered into<sup>5</sup> by Transport for London, or in pursuance of a transport subsidiary's agreement<sup>6</sup>;
- 463 (2) the general structure of routes of such services and the general level of provision to be made with respect to their frequency of operation<sup>7</sup>; and
- 464 (3) the general level of charges to be made for other facilities provided as mentioned in head (1) above<sup>8</sup>.

1 As to the Mayor of London see PARA 81 ante.

2 Ie under the Greater London Authority Act 1999 s 155(1): see PARA 286 ante.

3 As to the establishment of Transport for London see PARA 270 ante. As to the giving of directions see PARA 13 ante.

4 Greater London Authority Act 1999 s 174(1). Section 174(1) is modified by the London Regional Transport (Transitional Modifications) Order 2000, SI 2000/1504, for the duration of the transitional period (as defined in art 2) so as to require the Mayor to secure that the general level of fares on London Regional Transport public passenger transport services is determined: see art 4(1), (2). As to the transition from London Regional Transport to Transport for London see PARAS 271-277 ante.

5 Ie by virtue of the Greater London Authority Act 1999 s 156(2) or s 156(3)(a): see PARA 287 ante.

6 Ibid s 174(2)(a). For the meaning of 'transport subsidiary's agreement' see PARA 288 note 2 ante.

7 Ibid s 174(2)(b).

8 Ibid s 174(2)(c).

### **UPDATE**

### **303 Structure of fares and services**

NOTE 4--SI 2000/1504 revoked: SI 2003/1615.

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/4. TRANSPORT IN LONDON/(3) TRANSPORT FOR LONDON/(iv) Functions, Powers and Duties of Transport for London/B. SERVICES AND FACILITIES/304. Information and publicity about plans as to services and fares.

### **304. Information and publicity about plans as to services and fares.**

Transport for London<sup>1</sup> must in each year inform<sup>2</sup>: (1) the London borough councils<sup>3</sup>; (2) the Common Council of the City of London<sup>4</sup>; (3) the council of any county or district any part of whose area appears to Transport for London to be affected significantly by any plans falling within heads (a) to (d) below<sup>5</sup>; and (4) the London Transport Users' Committee<sup>6</sup>, of its current plans with respect to the general:

- 465 (a) level of transport services and facilities to be provided by Transport for London, any subsidiary<sup>7</sup> of Transport for London or any other person in pursuance of an agreement<sup>8</sup> entered into by Transport for London or in pursuance of a transport subsidiary's agreement<sup>9</sup>;
- 466 (b) structure of routes of such services<sup>10</sup>;
- 467 (c) level and structure of fares to be charged for such services<sup>11</sup>; and
- 468 (d) level of charges to be made for such facilities<sup>12</sup>.

Transport for London must cause particulars of the general level and structure of the fares falling within head (3) above as they apply for the time being to be published in such manner as it thinks fit<sup>13</sup>.

1 As to the establishment of Transport for London see PARA 270 ante.

2 Greater London Authority Act 1999 s 178(1).

3 Ibid s 178(2)(a). As to the London boroughs and their councils see PARAS 30, 35-39, 59 et seq ante.

4 Ibid s 178(2)(b). As to the Common Council of the City of London see PARA 51 et seq ante.

5 Ibid s 178(2)(c).

6 Ibid s 178(2)(d). As to the London Transport Users' Committee see PARAS 322-333 post.

7 As to the meaning of 'subsidiary' see PARA 288 note 2 ante.

8 Ie an agreement entered into by virtue of the Greater London Authority Act 1999 s 156(2) or s 156(3)(a): see PARA 287 ante.

9 Ibid s 178(1)(a). For the meaning of 'transport subsidiary's agreement' see PARA 288 note 2 ante.

10 Ibid s 178(1)(b).

11 Ibid s 178(1)(c).

12 Ibid s 178(1)(d).

13 Ibid s 178(3). As to the giving of information see also PARAS 295 ante, 307 note 6 post.

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/4. TRANSPORT IN LONDON/(3) TRANSPORT FOR LONDON/(iv) Functions, Powers and Duties of Transport for London/B. SERVICES AND FACILITIES/305. Incidental amenities and facilities.

### **305. Incidental amenities and facilities.**

Transport for London<sup>1</sup> may provide amenities or facilities<sup>2</sup>, and construct works, for the purpose of making those amenities, facilities or works available for the use of any other person in pursuance of any agreement<sup>3</sup> entered into by Transport for London<sup>4</sup>. It may also provide such amenities and facilities as it considers would benefit persons using:

- 469 (1) any services or facilities provided by Transport for London, by any subsidiary<sup>5</sup> of Transport for London, or by any other person in pursuance of any agreement entered into by Transport for London<sup>6</sup> or in pursuance of a transport subsidiary's agreement<sup>7</sup>; or
- 470 (2) any other London passenger services<sup>8</sup> or London connecting services<sup>9</sup>.

Transport for London may provide car parks and amenities or facilities for persons using them at any place convenient for prospective users of any services falling within head (1) or head (2) above<sup>10</sup>. It may also provide facilities for the parking or keeping of any public service vehicles used in the provision of any London passenger service or London connecting service at any place convenient for persons providing any such service<sup>11</sup>.

Where Transport for London has power<sup>12</sup> to provide any amenities or facilities<sup>13</sup>, it may enter into arrangements for the provision, including the management or operation, or, as the case may be, for the management or operation of any such amenities or facilities by any other person<sup>14</sup>. Any such arrangements may include provision for the making of payments by Transport for London to, or for the giving of guarantees or any other financial assistance by Transport for London for the benefit of, the other party to the arrangements<sup>15</sup>.

1 As to the establishment of Transport for London see PARA 270 ante.

2 References in the Greater London Authority Act 1999 to amenities or facilities provided by Transport for London include amenities or facilities provided, or managed or operated, by any other person in pursuance of arrangements under s 156(8), Sch 11 para 6 (see the text to notes 12-15 infra): Sch 11 para 6(3).

3 I.e. an agreement under ibid s 156(6): see PARA 287 ante.

4 Ibid Sch 11 para 4. As to the prohibition against Transport for London carrying on activities under Sch 11 paras 4-6, except through a subsidiary company or a company which Transport for London has formed or joined with others in forming under s 156(1) (see PARA 287 ante) see the Transport for London (Specified Activities) Order 2000, SI 2000/1548; and PARA 292 ante.

5 As to the meaning of 'subsidiary' see PARA 288 note 2 ante.

6 I.e. by virtue of the Greater London Authority Act 1999 s 156(2) or s 156(3)(a): see PARA 287 ante. For the meaning of 'transport subsidiary's agreement' see PARA 288 note 2 ante.

7 Ibid Sch 11 para 5(1)(a). See note 4 supra.

8 For these purposes, 'London passenger service' means any service for the carriage of passengers within, to or from Greater London (whether or not provided by Transport for London, by any subsidiary of Transport for London, or by any such other person as is mentioned in ibid Sch 11 para 5(1)(a) (see head (1) in the text)): Sch 11 para 5(4). As to Greater London see PARA 29 ante.

9 Ibid Sch 11 para 5(1)(b). See note 4 supra. For these purposes, 'London connecting service' means any service for the carriage of passengers to or from any place outside Greater London but convenient for

prospective users of London passenger services or for persons seeking to transfer from London passenger services to services for the carriage of passengers to destinations further afield (including destinations outside the United Kingdom): Sch 11 para 5(4). For the meaning of 'United Kingdom' see PARA 26 note 2 ante.

10 Ibid Sch 11 para 5(2), which is expressed to be without prejudice to Transport for London's powers under Sch 11 para 5(1) (see the text and notes 5-9 supra). See note 4 supra.

11 Ibid Sch 11 para 5(3). See note 4 supra.

12 Ie by virtue of any provision of ibid Sch 11 paras 4 or 5: see the text and notes 1-11 supra.

13 Ie including any amenities or facilities of a particular description specifically mentioned in any provision of ibid Sch 11 paras 4 or 5 (see the text and notes 1-11 supra): Sch 11 para 6(1).

14 Ibid Sch 11 para 6(1). See note 4 supra.

15 Ibid Sch 11 para 6(2). See note 4 supra.

## **UPDATE**

### **305 Incidental amenities and facilities**

TEXT AND NOTES--As to the provision of amenities, services and recreation and refreshment facilities by Transport for London on GLA roads see the Transport for London Act 2008 ss 41-48.

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/4. TRANSPORT IN LONDON/(3) TRANSPORT FOR LONDON/(iv) Functions, Powers and Duties of Transport for London/B. SERVICES AND FACILITIES/306. Museums.

### **306. Museums.**

Transport for London<sup>1</sup> may provide and maintain a museum of transport artefacts, records and other exhibits and may do anything necessary or expedient for or in connection with the provision or maintenance of the museum<sup>2</sup>. Transport for London may make a charge for admission to a museum maintained by it<sup>3</sup>.

1 As to the establishment of Transport for London see PARA 270 ante.

2 Greater London Authority Act 1999 s 156(8), Sch 11 para 28(1). As to the prohibition against Transport for London carrying on activities under Sch 11 para 28(1), (2), except through a subsidiary company or a company which Transport for London has formed or joined with others in forming under s 156(1) (see PARA 287 ante) see the Transport for London (Specified Activities) Order 2000, SI 2000/1548; and PARA 292 ante. As to the meaning of 'subsidiary' see PARA 288 note 2 ante.

As to museums generally see NATIONAL CULTURAL HERITAGE.

3 Greater London Authority Act 1999 Sch 11 para 28(2). See note 2 supra.



Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/4. TRANSPORT IN LONDON/(3) TRANSPORT FOR LONDON/(iv) Functions, Powers and Duties of Transport for London/B. SERVICES AND FACILITIES/307. Professional or technical assistance and advice.

### **307. Professional or technical assistance and advice.**

Transport for London<sup>1</sup> may provide for any person professional or technical advice or assistance, including research and other services, as respects any matter in which Transport for London has skill, experience or expertise<sup>2</sup>. Transport for London may, on the request of any person for whom it is providing such advice or assistance, establish for that person an undertaking carrying on any business in which Transport for London has skill or experience and manage it on that person's behalf<sup>3</sup>. Transport for London may make such charges as it thinks fit in respect of anything done in exercise of these powers<sup>4</sup>.

Transport for London may enter into arrangements with any person providing independent services<sup>5</sup> for the reciprocal provision, on such terms as may be provided for by the arrangements, of ancillary services<sup>6</sup> by each party to the arrangements in respect of any relevant passenger services<sup>7</sup> provided by the other<sup>8</sup>.

1 As to the establishment of Transport for London see PARA 270 ante.

2 Greater London Authority Act 1999 s 156(8), Sch 11 para 9(1). As to the prohibition against Transport for London carrying on activities under Sch 11 paras 9, 10, except through a subsidiary company or a company which Transport for London has formed or joined with others in forming under s 156(1) (see PARA 287 ante) see the Transport for London (Specified Activities) Order 2000, SI 2000/1548; and PARA 292 ante. As to the meaning of 'subsidiary' see PARA 288 note 2 ante.

3 Greater London Authority Act 1999 Sch 11 para 9(2). See note 2 supra.

4 Ibid Sch 11 para 9(3). See note 2 supra.

5 For these purposes, 'independent service' means any relevant passenger service provided otherwise than by Transport for London or by any of its subsidiaries: ibid Sch 11 para 10(1)(b). For these purposes, 'subsidiary' has the same meaning as in the Companies Act 1985 s 736 (as substituted) (see COMPANIES vol 14 (2009) PARA 25): Greater London Authority Act 1999 s 424(1).

6 For these purposes, 'ancillary services' includes, in relation to any relevant passenger services, the sale of tickets for the carriage of passengers on those services, the reservation of seats in vehicles used in the provision of those services and the provision of information about those services to members of the general public: ibid Sch 11 para 10(3).

7 For these purposes, 'relevant passenger service' means any London passenger service or London connecting service within the meaning of ibid Sch 11 para 5 (see PARA 305 notes 8, 9 ante) which is provided by any form of land or water transport (including, in either case, hovercraft): Sch 11 para 10(1)(a).

8 Ibid Sch 11 para 10(2). See note 2 supra.

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/4. TRANSPORT IN LONDON/(3) TRANSPORT FOR LONDON/(iv) Functions, Powers and Duties of Transport for London/B. SERVICES AND FACILITIES/308. Machinery and components.

### **308. Machinery and components.**

Transport for London<sup>1</sup> may manufacture<sup>2</sup> and repair<sup>3</sup> any spare parts and components or other supplementary machinery or equipment required for the purpose of the operation or repair of any existing vehicles or other equipment of Transport for London or of any subsidiary<sup>4</sup> of Transport for London<sup>5</sup>. Transport for London may repair any vehicles or other equipment, whether owned by Transport for London itself or by any subsidiary of Transport for London or by any other person, and for the purpose of repairing any vehicle or equipment not belonging to Transport for London may supply any necessary parts and components for that vehicle or equipment<sup>6</sup>.

1 As to the establishment of Transport for London see PARA 270 ante.

2 For these purposes, references to manufacture include references to construction and production: Greater London Authority Act 1999 s 156(8), Sch 11 para 8(3)(a).

3 For these purposes, references to repair include references to maintenance: *ibid* Sch 11 para 8(3)(b).

4 As to the meaning of 'subsidiary' see PARA 288 note 2 ante.

5 Greater London Authority Act 1999 Sch 11 para 8(1). As to the prohibition against Transport for London carrying on activities under Sch 11 para 8(1), (2), except through a subsidiary company or a company which Transport for London has formed or joined with others in forming under s 156(1) (see PARA 287 ante) see the Transport for London (Specified Activities) Order 2000, SI 2000/1548; and PARA 292 ante.

6 Greater London Authority Act 1999 Sch 11 para 8(2). See note 5 *supra*.

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### **309. Exploitation of commercial opportunities.**

Transport for London may let vehicles on hire<sup>1</sup>. It may dispose, whether absolutely or for a term of years, of any part of its undertaking or any property which in the opinion of the Mayor of London<sup>2</sup> is not required by Transport for London for the purposes of the discharge by it of any of its functions and, in particular, may dispose of any interest in, or right over, any property which, subject to that interest or right, is retained by Transport for London<sup>3</sup>. Transport for London may supply to any person spare parts and components for passenger road vehicles so disposed of by Transport for London<sup>4</sup>, or by a subsidiary<sup>5</sup> of Transport for London, as being no longer required for the purposes of the discharge by Transport for London of any of its functions<sup>6</sup>.

Transport for London may: (1) invest sums not immediately required for the purposes of the discharge by Transport for London of any of its functions<sup>7</sup>; (2) turn its resources to account so far as not required for those purposes<sup>8</sup>; and (3) spend such sums as it considers reasonable in the exploitation of commercial opportunities arising from the activities it carries on in the discharge of its functions<sup>9</sup>.

1 Greater London Authority Act 1999 s 156(8), Sch 11 para 11. If Transport for London engages, either directly or through a subsidiary, in any activities authorised by Sch 11 para 11, it must in carrying on those activities act as if it were a company engaged in a commercial enterprise or, as the case may be, must exercise its control over that subsidiary so as to ensure that the subsidiary in carrying on those activities acts as a company so engaged: Sch 11 para 29.

As to the prohibition against Transport for London carrying on activities under Sch 11 paras 11, 12(2), 13(b), except through a subsidiary company or a company which Transport for London has formed or joined with others in forming under s 156(1) (see PARA 287 ante) see the Transport for London (Specified Activities) Order 2000, SI 2000/1548; and PARA 292 ante.

2 As to the Mayor of London see PARA 81 ante.

3 Greater London Authority Act 1999 Sch 11 para 12(1).

4 Ie in the exercise of its powers under *ibid* Sch 11 para 12(1): see the text to notes 2-3 *supra*.

5 As to the meaning of 'subsidiary' see PARA 288 note 2 ante.

6 Greater London Authority Act 1999 Sch 11 para 12(2). See note 1 *supra*.

7 *Ibid* Sch 11 para 13(a).

8 *Ibid* Sch 11 para 13(b). See note 1 *supra*.

9 *Ibid* Sch 11 para 13(c).

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### **310. Disapplication of certain local enactments.**

No local enactment passed or made with respect to any particular undertaking so far as it imposes on persons carrying on that undertaking: (1) a duty to connect, or afford facilities for the connection of, any siding to a railway<sup>1</sup>; (2) a duty to permit privately owned railway wagons to be used on a railway owned or operated by them<sup>2</sup>; or (3) a duty (otherwise than to a named person, or to the successor of a named person, or for the benefit of specified lands) to provide or maintain any other railway services or facilities (including the provision of stations, sidings or carriages and of any services, facilities or amenities connected with stations, sidings or carriages)<sup>3</sup>, or so far as it otherwise makes provision corresponding to any of certain repealed enactments<sup>4</sup>, applies to Transport for London<sup>5</sup>.

1 Greater London Authority Act 1999 s 156(8), Sch 11 para 31(2)(a).

2 Ibid Sch 11 para 31(2)(b).

3 Ibid Sch 11 para 31(2)(c).

4 I.e. the Railways Clauses Consolidation Act 1845 s 76, the Railways Clauses Consolidation (Scotland) Act 1845 s 69, the Railway and Canal Traffic Act 1854 ss 2, 7, the Railways Act 1921 ss 16, 39, the London Passenger Transport Act 1933 s 30, the Road and Rail Traffic Act 1933 s 39, and the Transport Act 1953 s 22, all of which made provision with respect to transport charges and facilities and were repealed by the Transport Act 1962: Greater London Authority Act 1999 Sch 11 para 31(3).

5 Ibid Sch 11 para 31(2). As to the establishment of Transport for London see PARA 270 ante.

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### **311. Intermodal freight facilities.**

Transport for London<sup>1</sup> may provide and maintain facilities for the transfer of freight:

- 471 (1) from a railway to any other mode of transport<sup>2</sup>;
- 472 (2) to a railway from any other mode of transport<sup>3</sup>;
- 473 (3) from a waterway to any other mode of transport<sup>4</sup>; and
- 474 (4) to a waterway from any other mode of transport<sup>5</sup>.

1 As to the establishment of Transport for London see PARA 270 ante.

2 Greater London Authority Act 1999 s 156(8), Sch 11 para 14(a). As to the prohibition against Transport for London carrying on activities under Sch 11 para 14, except through a subsidiary company or a company which Transport for London has formed or joined with others in forming under s 156(1) (see PARA 287 ante) see the Transport for London (Specified Activities) Order 2000, SI 2000/1548; and PARA 292 ante. As to the meaning of 'subsidiary' see PARA 288 note 2 ante.

3 Greater London Authority Act 1999 Sch 11 para 14(b).

4 Ibid Sch 11 para 14(c). See note 2 supra.

5 Ibid Sch 11 para 14(d). See note 2 supra.

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### **312. Provision of facilities to benefit users of waterways.**

Transport for London<sup>1</sup> may provide or secure the provision of such amenities and facilities<sup>2</sup> as it considers would benefit persons using any waterway<sup>3</sup>. Before commencing any works for the purposes of exercising these powers, Transport for London must comply with any requirement in an enactment to obtain a licence or consent in respect of the works<sup>4</sup>, or if there is no such requirement, obtain the consent to the works of any person who is under a duty to maintain the waterway to which they relate<sup>5</sup>.

1 As to the establishment of Transport for London see PARA 270 ante.

2 As to references to amenities or facilities provided by Transport for London see PARA 287 note 16 ante.

3 Greater London Authority Act 1999 s 256(1). As to the prohibition against Transport for London carrying on activities under s 256(1), except through a subsidiary company or a company which Transport for London has formed or joined with others in forming under s 156(1) (see PARA 287 ante) see the Transport for London (Specified Activities) Order 2000, SI 2000/1548; and PARA 292 ante. As to the provision that has been made for the transfer of certain rights and obligations relating to landing places: see the Greater London Authority Act 1999 s 258; and PARA 258 ante. As to the meaning of 'subsidiary' see PARA 288 note 2 ante.

4 Ibid s 256(2)(a).

5 Ibid s 256(2)(b).

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### 313. Byelaws for railways and landing places.

Transport for London<sup>1</sup> may make byelaws<sup>2</sup> regulating:

- 475 (1) the use and working of its railways<sup>3</sup>;
- 476 (2) travel on its railways<sup>4</sup>;
- 477 (3) the maintenance of order on its railways and railway premises, including stations and the approaches to stations<sup>5</sup>;
- 478 (4) the conduct of all persons while on those premises, including officers and employees of Transport for London<sup>6</sup>.

Byelaws made by Transport for London by virtue of heads (1) to (4) above may include in particular byelaws:

- 479 (a) with respect to tickets issued for entry on its railway premises or travel on its railways and the evasion of payment of fares and other charges<sup>7</sup>;
- 480 (b) with respect to interference with or obstruction of the working of the railways<sup>8</sup>;
- 481 (c) with respect to the smoking of tobacco in railway carriages and elsewhere<sup>9</sup>;
- 482 (d) with respect to the prevention of nuisances<sup>10</sup>;
- 483 (e) with respect to the receipt and delivery of goods<sup>11</sup>;
- 484 (f) for regulating the passage of bicycles and other vehicles on footways and other premises controlled by Transport for London and intended for the use of pedestrians<sup>12</sup>.

Any such byelaws made by virtue of heads (1) to (4) above may provide that any person contravening them is liable on summary conviction to a fine for each offence not exceeding level 3 on the standard scale<sup>13</sup> or not exceeding a lesser amount<sup>14</sup>. Where the contravention of such a byelaw causes danger or annoyance to the public, or hindrance to Transport for London in the lawful use of its railway, Transport for London may summarily interfere to obviate or remove the danger, annoyance or hindrance<sup>15</sup>.

Transport for London may make and enforce byelaws for regulating or controlling the use of any landing place<sup>16</sup> which is vested in or operated by it or any of its subsidiaries<sup>17</sup>. This power includes the power to make and enforce byelaws specifying persons or descriptions of persons who, or vessels or descriptions of vessels which, may or may not use a landing place<sup>18</sup>. A person who contravenes such a byelaw is liable, on summary conviction, to a fine not exceeding level 2 on the standard scale<sup>19</sup>.

1 As to the establishment of Transport for London see PARA 270 ante.

2 Such byelaws will not come into operation until they have been confirmed by the Secretary of State: see the Transport Act 1962 s 67(5); Greater London Authority Act 1999 s 156(8), Sch 11 para 26(6). At least 28 days before application for confirmation of any byelaws is made, Transport for London must publish in such manner as may be approved by the Secretary of State a notice of its intention to apply for confirmation and of the place at which and the time during which a copy of the byelaws will be open for public inspection; and any person affected by any of the byelaws is entitled to make representations on them to the Secretary of State within a period of not less than 28 days specified in the notice: see the Transport Act 1962 s 67(6); and the Greater London Authority Act 1999 Sch 11 para 26(6). For at least 24 days before application for confirmation of any

byelaws is made, a copy of the byelaws must be kept at the principal office of Transport for London and must at all reasonable hours be open to public inspection without payment: see the Transport Act 1962 s 67(7); and the Greater London Authority Act 1999 Sch 11 para 26(6). Transport for London must supply a copy of any such byelaws to any person who applies for a copy of them on payment of such sum not exceeding 50p as Transport for London determines: see the Transport Act 1962 s 67(8) (s 67(8), (10) amended by virtue of the Decimal Currency Act 1969 s 10); and the Greater London Authority Act 1999 Sch 11 para 26(6). The Secretary of State may confirm with or without modification, or may refuse to confirm, any of the byelaws so submitted for confirmation and, as regards any byelaws so confirmed, may fix a date on which the byelaws will come into operation; and if no date is so fixed the byelaws will come into operation after the expiration of 28 days after the date of confirmation: see the Transport Act 1962 s 67(9); and the Greater London Authority Act 1999 Sch 11 para 26(6). The Secretary of State may charge Transport for London such fees in respect of any byelaws so submitted for confirmation as he may consider appropriate for the purpose of defraying any administrative expenses incurred by him in connection with them: see the Transport Act 1962 s 67(9A) (added by the Railways Act 1993 s 129(3)); and the Greater London Authority Act 1999 Sch 11 para 26(6). A copy of the byelaws when confirmed must be printed and deposited at the principal office of Transport for London and must at all reasonable hours be open to public inspection without payment, and Transport for London must supply a copy of any such byelaws to any person who applies for a copy of them on payment of such sum not exceeding 50p as Transport for London determines: see the Transport Act 1962 s 67(10) (as so amended); and the Greater London Authority Act 1999 Sch 11 para 26(6). The production of a printed copy of byelaws so confirmed on which is indorsed a certificate purporting to be signed by the secretary of Transport for London or of some person authorised by Transport for London to act in its stead in that behalf, stating: (1) that the byelaws were made by Transport for London; (2) that the copy is a true copy of the byelaws; (3) that on a specified date the byelaws were confirmed by the Secretary of State; and (4) the date when the byelaws come into operation, is prima facie evidence of the facts stated in the certificate: see the Transport Act 1962 s 67(11); and the Greater London Authority Act 1999 Sch 11 para 26(6). This power to make byelaws includes power to vary or repeal any byelaws previously so made: Transport Act 1962 s 67(12); Greater London Authority Act 1999 Sch 11 para 26(6). As to the meaning of 'certificate' see PARA 111 note 4 ante. As to the Secretary of State see PARA 12 note 2 ante.

3 Ibid Sch 11 para 26(1)(a). For the purposes of Sch 11 para 26, railways, railway premises, officers or employees of a subsidiary of Transport for London are deemed to be railways, railway premises, officers or employees of Transport for London, and footways and other premises controlled by a subsidiary of Transport for London are deemed to be footways and other premises controlled by Transport for London: Sch 11 para 26(7). As to the meaning of 'subsidiary' see PARA 288 note 2 ante.

4 Ibid Sch 11 para 26(1)(b).

5 Ibid Sch 11 para 26(1)(c).

6 Ibid Sch 11 para 26(1)(d).

7 Ibid Sch 11 para 26(2)(a).

8 Ibid Sch 11 para 26(2)(b).

9 Ibid Sch 11 para 26(2)(c).

10 Ibid Sch 11 para 26(2)(d).

11 Ibid Sch 11 para 26(2)(e).

12 Ibid Sch 11 para 26(2)(f).

13 As to the standard scale see PARA 87 note 6 ante.

14 Greater London Authority Act 1999 Sch 11 para 26(3).

15 Ibid Sch 11 para 26(4). Anything done by Transport for London under Sch 11 para 26(4) is without prejudice to the taking of summary proceedings under Sch 11 para 26(3) (see the text to notes 13-14 supra): Sch 11 para 26(5).

16 For these purposes, 'landing place' means any waterside landing place, wharf, pier, jetty, pontoon, causeway, hard, footway or other installation, and includes any associated buildings and approaches to it over and from land: ibid Sch 11 para 27(6). As to the provision that has been made for the transfer of certain rights and obligations relating to landing places: see s 258; and PARA 258 ante.

17 Ibid Sch 11 para 27(1). Schedule 11 para 27(1) does not apply to any landing place for which the Port of London Authority has power to make byelaws under the Port of London Act 1968 s 161 (byelaws for port



premises): Greater London Authority Act 1999 Sch 11 para 27(2). No byelaw made by Transport for London under Sch 11 para 27(1) may conflict or interfere with the operation of any byelaw made by the Port of London Authority under the Port of London Act 1968 s 162(1)(b) or s 162(1)(e) (Thames byelaws): Greater London Authority Act 1999 Sch 11 para 27(2), (3). As to the Port of London Authority see PORTS AND HARBOURS vol 36(1) (2007 Reissue) PARA 623 et seq.

18 Ibid Sch 11 para 27(4). The power to make and enforce byelaws for regulating or controlling the use of any landing place under Sch 11 para 27 is without prejudice to the provisions of any other enactment: Sch 11 para 27(7).

19 Ibid Sch 11 para 27(5).

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### **C. LAND AND PROPERTY**

#### **314. Acquisition, disposal and development of land.**

Transport for London<sup>1</sup> may develop its land in such manner as it thinks fit<sup>2</sup>. It may in particular:

- 485 (1) develop for use by other persons land belonging to it which is not required for the purposes of the discharge by it of any of its functions<sup>3</sup>; and
- 486 (2) where the use of it's land for the purposes of the discharge by it of any of its functions can be combined with its use by other persons, develop the land by constructing or adapting buildings on it for use wholly or partly by other persons<sup>4</sup>,

with a view to the disposal of any right or interest in the land or, as the case may be, the buildings or any part of the buildings after the development is carried out<sup>5</sup>. Where Transport for London proposes to develop any land for use otherwise than for the purposes of discharging any of its functions it may acquire by agreement other land in the vicinity for the purpose of developing it together with that land<sup>6</sup>.

Transport for London may grant an interest to any person in any land which it uses for the purposes of discharging any of its functions<sup>7</sup>. Where Transport for London has an interest in land which is used otherwise than for the purposes of discharging any of its functions, it may acquire by agreement additional interests in that land in order better to exploit the interest which it already has in that land<sup>8</sup>.

Transport for London may acquire land for the purposes of discharging any of its functions, including the rehousing of the occupiers of dwellings acquired or to be acquired by Transport for London<sup>9</sup>. This power includes a power to purchase land which Transport for London has no immediate plans to use or develop<sup>10</sup>. Transport for London may acquire land by agreement for the purposes of any agreement entered into by it<sup>11</sup> or of any transport subsidiary's agreement<sup>12</sup>. Where Transport for London proposes to dispose of any of its land it may acquire by agreement land in the vicinity for the purpose of disposing of it together with the other land<sup>13</sup>.

The Secretary of State<sup>14</sup> may authorise Transport for London to purchase compulsorily any land which is required by Transport for London or a subsidiary of Transport for London for the purposes of the discharge of any function<sup>15</sup>. The Acquisition of Land Act 1981 applies to any compulsory purchase by virtue of this power<sup>16</sup>. Transport for London must not by virtue of this power submit to the Secretary of State a compulsory purchase order authorising the acquisition of any land<sup>17</sup> unless the Mayor of London<sup>18</sup> has given his consent<sup>19</sup>.

Where any activities for which provision is made by an agreement entered into by Transport for London<sup>20</sup> or under a transport subsidiary's agreement cease to be carried on by the other party, whether by reason of the expiry or termination of the agreement or otherwise, Transport for London may:

- 487 (a) acquire by agreement any land or other property used for the purpose of carrying on those activities<sup>21</sup>; and
- 488 (b) in the case of an agreement entered into by Transport for London with another person for that person to carry on activities which Transport for London does not have the power to carry on<sup>22</sup> or of a transport subsidiary's agreement<sup>23</sup>,

itself carry on those activities notwithstanding that it would not otherwise have power to do so<sup>24</sup>.

- 1 As to the establishment of Transport for London see PARA 270 ante.
  - 2 Greater London Authority Act 1999 s 156(8), Sch 11 para 15(1). As to the prohibition against Transport for London carrying on activities under Sch 11 paras 15(1), (3), 16, 17, 21(b), except through a subsidiary company or a company which Transport for London has formed or joined with others in forming under s 156(1) (see PARA 287 ante) see the Transport for London (Specified Activities) Order 2000, SI 2000/1548; and PARA 292 ante. As to the meaning of 'subsidiary' see PARA 288 note 2 ante.
  - 3 Greater London Authority Act 1999 Sch 11 para 15(2)(a).
  - 4 Ibid Sch 11 para 15(2)(b).
  - 5 Ibid Sch 11 para 15(2). If Transport for London engages, either directly or through a subsidiary, in any activities authorised by Sch 11 para 15(2) or Sch 11 para 15(3), it must in carrying on those activities act as if it were a company engaged in a commercial enterprise or, as the case may be, must exercise its control over that subsidiary so as to ensure that the subsidiary in carrying on those activities acts as a company so engaged: Sch 11 para 29.
  - 6 Ibid Sch 11 para 15(3). However, except as provided by Sch 11 paras 15(3), 17 (see the text and notes 5 supra, 8 infra) or Sch 11 para 18(3) or (4) (see the text and notes 11-13 infra), Transport for London does not have power to acquire land (or any interest in land) for purposes which are not related to any of the activities, other than the development of land, of Transport for London or any subsidiary of Transport for London: Sch 11 para 20. See notes 2, 5 supra.
  - 7 Ibid Sch 11 para 16. See note 2 supra.
  - 8 Ibid Sch 11 para 17, which is expressed to be subject to Sch 11 para 20 (see note 6 supra). See notes 2, 6 supra.
  - 9 Ibid Sch 11 para 18(1), which is subject to Sch 11 para 20 (see note 6 supra).
  - 10 Ibid Sch 11 para 18(2).
  - 11 Ie under ibid s 156(2) or s 156(3): see PARA 287 ante.
  - 12 Ibid Sch 11 para 18(3). For the meaning of 'transport subsidiary's agreement' see PARA 288 note 2 ante. See note 6 supra.
  - 13 Ibid Sch 11 para 18(4). See note 6 supra.
  - 14 As to the Secretary of State see PARA 12 note 2 ante.
  - 15 Greater London Authority Act 1999 Sch 11 para 19(1), which is expressed to be subject to Sch 11 para 20 (see note 6 supra). Activities carried on by Transport for London by virtue of Sch 11 para 9 (technical assistance and advice: see PARA 307 ante) are not to be treated for the purposes of Sch 11 para 19(1) as the discharge by Transport for London of any of its functions: Sch 11 para 19(4).
- Schedule 11 para 19 does not authorise Transport for London to purchase compulsorily land which it has power to acquire by agreement under Sch 11 para 15(3) or Sch 11 para 18(3) or (4) (see text and notes 6, 12 and 13 supra): Sch 11 para 19(5). The power of purchasing land compulsorily in Sch 11 para 19 includes power to acquire an easement or other right over land by the creation of a new right: Sch 11 para 19(6). However, this does not apply to an easement or other right over land which forms part of a common, open space or fuel or field garden allotment within the meaning of the Acquisition of Land Act 1981 s 19 (see COMPULSORY ACQUISITION OF LAND vol 18 (2009) PARA 531): Greater London Authority Act 1999 Sch 11 para 19(7). As to the acquisition of easements see EASEMENTS AND PROFITS A PRENDRE.
- 16 Ibid Sch 11 para 19(2). See further COMPULSORY ACQUISITION OF LAND.
  - 17 Ie in accordance with the Acquisition of Land Act 1981 s 2(2): see COMPULSORY ACQUISITION OF LAND vol 18 (2009) PARA 557.
  - 18 As to the Mayor of London see PARA 81 ante.
  - 19 Greater London Authority Act 1999 Sch 11 para 19(3).

- 20    le under ibid s 156(2) or s 156(3): see PARA 287 ante.
- 21    Ibid Sch 11 para 21(a).
- 22    le in the case of an agreement under ibid s 156(3): see PARA 287 ante.
- 23    le falling within ibid s 169(3): see PARA 288 ante.
- 24    Ibid Sch 11 para 21(b). See note 2 supra.

## **UPDATE**

### **314 Acquisition, disposal and development of land**

NOTE 9--1999 Act Sch 11 para 18(1) amended: Transport for London Act 2008 s 50.

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### **315. Restrictions on disposal of land.**

Neither Transport for London<sup>1</sup> nor the Greater London Authority<sup>2</sup> may by virtue of any provision of the Greater London Authority Act 1999 dispose of the freehold interest in any land which is or has been operational land<sup>3</sup>, or grant a leasehold interest in such land for a term of more than 50 years<sup>4</sup>, without the consent of the Secretary of State<sup>5</sup>. Where an estate or interest in, or right over, any land which is or has been operational land is vested in a company<sup>6</sup> which is a subsidiary of Transport for London, Transport for London must not, without the consent of the Secretary of State, enter into any transaction or series of transactions the result of which would be that the company would cease to be a subsidiary of Transport for London<sup>7</sup>. Consent is not required by reason of any land having been operational land if a period of at least five years has elapsed since the land was last operational land<sup>8</sup>. Any consent of the Secretary of State may be given in relation to any particular transaction or description of transactions, and may be given subject to conditions<sup>9</sup>. Such consent must be given in an order made by the Secretary of State<sup>10</sup>.

1 As to the establishment of Transport for London see PARA 270 ante.

2 As to the Greater London Authority see PARA 79 et seq ante.

3 Greater London Authority Act 1999 s 163(1)(a). For these purposes, 'operational land' means: (1) land which is used for the purpose of carrying on any railway or tramway undertaking of Transport for London or of a subsidiary of Transport for London; and (2) land in which an interest is held for that purpose: s 163(8). However, head (1) and head (2) supra do not include land which, in respect of its nature and situation, is comparable rather with land in general than with land which is used, or in which interests are held, for the purpose of the carrying on of a railway or tramway undertaking: s 163(8). For these purposes, 'railway' and 'tramway' have the same meanings as in the Transport and Works Act 1992 s 67 (see RAILWAYS, INLAND WATERWAYS AND CROSS-COUNTRY PIPELINES vol 39(1A) (Reissue) PARA 302); Greater London Authority Act 1999 s 163(8). For these purposes, 'subsidiary' has the same meaning as in the Companies Act 1985 s 736 (as substituted) (see COMPANIES vol 14 (2009) PARA 25); Greater London Authority Act 1999 s 424(1).

Any question whether land is operational land within the meaning of s 163 must be determined by the Secretary of State: s 163(7). For the purposes of s 163, land which has at any time been used, or in which an interest has at any time been held, for the purpose of carrying on a railway or tramway undertaking of London Regional Transport, or of a subsidiary of London Regional Transport, must be treated as if that undertaking had at that time been an undertaking of Transport for London's or of a subsidiary of Transport for London's (and any question whether the land was, or had ceased to be, operational land at any time must be determined accordingly): s 163(9). As to the Secretary of State see PARA 12 note 2 ante. As to the transition from London Regional Transport to Transport for London see PARAS 271-277 ante. As to the meaning of 'subsidiary' see PARA 288 note 2 ante.

4 Ibid s 163(1)(b).

5 Ibid s 163(1).

6 For the meaning of 'company' see PARA 17 note 19 ante.

7 Greater London Authority Act 1999 s 163(2).

8 Ibid s 163(3). The Secretary of State may by order amend s 163(3) by substituting a different period for that for the time being there specified: s 163(4). At the date at which this volume states the law no such orders had been made. As to the making of orders generally see PARA 13 ante.

9 Ibid s 163(5).

10 Ibid s 163(6).

**UPDATE**

**315 Restrictions on disposal of land**

TEXT AND NOTE 10--1999 Act s 163(6) substituted: Greater London Authority Act 2007 s 17.

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### **316. Schemes for transfer of property, rights and liabilities.**

Transport for London<sup>1</sup> may make schemes for the transfer of property, rights and liabilities between Transport for London and any subsidiary<sup>2</sup> of Transport for London<sup>3</sup>, or between any subsidiary of Transport for London and any other such subsidiary<sup>4</sup>. Such a scheme does not take effect unless and until it has been approved by the Mayor of London<sup>5</sup>. Where such a scheme is submitted to the Mayor for his approval, he may, after consultation with Transport for London, modify the scheme before approving it<sup>6</sup>. Provision is also made for the making by Transport for London of schemes for the transfer of key system assets in connection with public-private partnership agreements ('PPP agreements')<sup>7</sup>.

1 As to the establishment of Transport for London see PARA 270 ante.

2 As to the meaning of 'subsidiary' see PARA 288 note 2 ante.

3 Greater London Authority Act 1999 s 165(1)(a).

4 Ibid s 165(1)(b).

5 Ibid s 165(2). As to the Mayor of London see PARA 81 ante.

6 Ibid s 165(3).

7 See ibid ss 210(1), 217(7), Sch 12. For special provision in relation to taxation see s 419(4), Sch 33 Pt II. PPP agreements and key system assets, and transfers in connection with them, are not dealt with in this title: see PARA 316 et seq post. Schedule 12 (Transport for London transfer schemes) (see PARAS 317-321 post) applies for the purposes of transfer schemes under both s 165 and s 217, except that Sch 12 para 11 (provision of information) does not apply to such schemes under s 165.

### **UPDATE**

### **316 Schemes for transfer of property, rights and liabilities**

TEXT AND NOTE 7--For provision as to public-private partnership agreements, see PARA 316A.

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### **316A. Public-private partnership agreements.**

#### **1. Introductory**

A public-private partnership agreement ('PPP agreement') is a contract in the case of which the following conditions are satisfied<sup>1</sup>: (1) at least one of the parties to the contract must be a relevant body<sup>2</sup>; (2) the contract must be one which involves the provision, construction, renewal, or improvement, and the maintenance, of a railway<sup>3</sup> or proposed railway and, if or to the extent that the contract so provides, of any stations<sup>4</sup>, rolling stock<sup>5</sup> or depots used or to be used in connection with that railway<sup>6</sup>; (3) the railway or proposed railway must be one which belongs or will belong to, or to a subsidiary of, London Regional Transport or Transport for London, or is being provided, constructed, renewed or improved under the contract for, or for a subsidiary of, London Regional Transport or Transport for London<sup>7</sup>; (4) if a party who undertakes to carry out or secure the carrying out of any or all of the work<sup>8</sup> (a 'PPP company') is a public sector operator<sup>9</sup> at the time when the contract is made, that party will no longer be a public sector operator on the day following the expiration of the period of six weeks beginning with the day on which a certain condition is satisfied<sup>10</sup>.

'Public sector operator' means: (a) any minister of the Crown<sup>11</sup>, government department or other emanation of the Crown; (b) any local authority<sup>12</sup>; (c) any Integrated Transport Authority for an integrated transport area in England; (d) any combined authority; (e) any body corporate whose members are appointed by a minister of the Crown, a government department, a local authority, an Integrated Transport Authority for an integrated transport area in England or a combined authority, or by a body corporate whose members are so appointed; (f) a company<sup>13</sup> falling within a specified description<sup>14</sup>; (g) a subsidiary of such a company<sup>15</sup>.

Any designation<sup>16</sup> must be made in a direction issued by the appropriate authority<sup>17</sup>. A PPP designation must describe the subject matter of the contracts to which it relates, describe the parties to those contracts, and, if made before one or more of those contracts has been entered into, state a time by which a contract must have been entered into if it is to be a PPP agreement by virtue of the designation<sup>18</sup>. A PPP designation may be made before or after the making of any contract to which it relates<sup>19</sup>. A contract will not be a PPP agreement by virtue of a PPP designation made after the making of the contract, except with the consent of the parties to the contract<sup>20</sup>.

Where, by virtue of a PPP agreement, statutory functions<sup>21</sup> relating to a railway are exercisable by a PPP company, the PPP company must, as respects any matter arising from the carrying out of the subject matter of the PPP agreement, be taken to be authorised by an enactment to carry on a railway undertaking<sup>22</sup>.

1 Greater London Authority Act 1999 s 210(1).

2 Ibid s 210(2). Relevant bodies are: (1) London Regional Transport (see PARA 301 et seq); (2) Transport for London (see PARA 256 et seq); or (3) a subsidiary of London Regional Transport or Transport for London: Greater London Authority Act 1999 s 210(2). See also the Government Resources and Accounts Act 2000 s 16 (establishment of public-private partnership bodies): PARA 316A.9. For the meaning of 'subsidiary' see PARA 288 NOTE 2.

3 'Railway' has the meaning given in the Transport and Works Act 1992 s 67(1): Greater London Authority Act 1999 Act s 239(1). Any reference to a railway includes a reference to any stretch of track comprised in a railway: s 239(2).



- 4 'Station' means any land or other property which consists of premises used as, or for the purposes of, or otherwise in connection with, a railway passenger station or railway passenger terminal (including any approaches, forecourt, cycle store or car park), whether or not the land or other property is, or the premises are, also used for other purposes: *ibid* s 239(1). 'Premises' includes any land, building or structure: s 239(1).
- 5 'Rolling stock' means any carriage, wagon or other vehicle used on a railway and includes a locomotive: *ibid* s 239(1). 'Vehicle' includes a railway vehicle: s 239(1). 'Locomotive' means any railway vehicle which has the capacity for self-propulsion (whether or not the power by which it operates is derived from a source external to the vehicle): s 239(1).
- 6 *Ibid* s 210(3).
- 7 *Ibid* s 210(4).
- 8 *Ie* mentioned in *ibid* s 210(3).
- 9 For the meaning of 'public sector operator' see TEXT AND NOTES 16-19.
- 10 *Ibid* s 210(5). The condition which must be satisfied is that the contract must be one which is, or is of a description which is, designated as a PPP agreement: *ibid* s 210(6).
- 11 'Minister of the Crown' has the same meaning as in the Ministers of the Crown Act 1975 (see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARA 363); Greater London Authority Act 1999 s 424(1).
- 12 'Local authority' has the same meaning as in the Local Government Act 1972 (see LOCAL GOVERNMENT vol 69 (2009) PARA 23); Greater London Authority Act 1999 s 424(1).
- 13 For the meaning of 'company' see PARA 17.
- 14 The specified description is that: (1) a majority of the company's issued shares are held by or on behalf of any of the bodies or persons falling within TEXT heads (a) to (d) above; (2) the majority of the voting rights in the company are held by or on behalf of any of those bodies or persons; (3) a majority of the company's board of directors can be appointed or removed by any of those bodies or persons; or (4) the majority of the voting rights are controlled by any of those bodies or persons, pursuant to an agreement with other persons: Greater London Authority Act 1999 s 211(1)(e). Expressions used in s 211(1)(e) that are defined for the purposes of the Companies Acts have the same meaning as in those provisions: Greater London Authority Act 1999 s 211(2) (substituted by SI 2009/1941).
- 15 Greater London Authority Act 1999 s 211(1) (amended by the Local Transport Act 2008 Sch 4 para 63; Local Democracy, Economic Development and Construction Act 2009 Sch 6 para 92).
- 16 *Ie* for the purposes of *ibid* s 210(6) (a 'PPP designation').
- 17 *Ibid* s 212(1). 'The appropriate authority' means: (1) as respects any direction issued before the transfer date, the Secretary of State; and (2) as respects any direction issued on or after that date, the Mayor of London: s 212(6). 'The transfer date' means the date on which London Underground Limited becomes a subsidiary of Transport for London: s 239(1). As to the Mayor of London see PARA 81 *et seq.*
- 18 *Ibid* s 212(2). The time stated must not be later than three months after the date of the direction containing the designation: s 212(3).
- 19 *Ibid* s 212(4).
- 20 *Ibid* s 212(5).
- 21 'Statutory functions' means functions conferred or imposed by or under any enactment: *ibid* s 424(1).
- 22 *Ibid* s 238.

## 2. Key system assets

Except as provided<sup>1</sup>, the relevant authority<sup>2</sup> must keep a register of all key system assets<sup>3</sup> for the time being<sup>4</sup>. The register must state: (1) the date on which any designation of a particular key system asset, or of a description of key system assets, was made; and (2) sufficient details of any particular key system asset, or any description of key system assets, designated as such

to enable the key system assets to be identified<sup>5</sup>. The register need not contain an entry in respect of any particular key system asset or description of key system assets if the relevant authority, with the consent of the PPP company<sup>6</sup> concerned, keeps the requisite copy documents<sup>7</sup> available for inspection by the public at all reasonable hours free of charge<sup>8</sup>. The register must be available for inspection by the public free of charge at all reasonable hours<sup>9</sup>. A person inspecting the register, or any requisite copy documents available for inspection, may make copies of, or of extracts from, the register or requisite copy documents<sup>10</sup>.

Where a PPP agreement is or has been entered into, the powers of the relevant authority include power to enter into and carry out other agreements with other persons in connection with the PPP agreement, whether or not there is any term in the PPP agreement relating to such other agreements<sup>11</sup>. Where a PPP agreement is or has been entered into, and the PPP company or the relevant authority<sup>12</sup> enters into arrangements with another person (a 'PPP related third party') which do not constitute a PPP agreement, but which involve the provision of property or rights for use for the purposes of or otherwise in connection with the PPP agreement, then the relevant authority<sup>13</sup> may enter into an agreement with the PPP related third party for the purpose of enabling the property or rights in question to be designated as, and to be, key system assets as if (a) the agreement between the relevant authority or subsidiary and the PPP related third party were a PPP agreement; and (b) the PPP related third party were the PPP company under that agreement<sup>14</sup>.

If and to the extent that key system assets are property or rights, a PPP company must not, without the consent of the relevant authority, transfer or agree to transfer, or create or agree to create any security<sup>15</sup> over, any of those key system assets or any interest in, or right over, any of those key system assets, or create or extinguish, or agree to create or extinguish, any interest in, or right over, any of those key system assets<sup>16</sup>. If and to the extent that key system assets are liabilities, a PPP company must not, without the consent of the relevant authority, enter into any agreement under which any such liability is released or discharged or transferred to some other person<sup>17</sup>. Any transaction which is entered into in contravention of the foregoing is void<sup>18</sup>.

No execution or other legal process may be commenced or continued, and no distress may be levied, against any property which is, or rights which are, key system assets<sup>19</sup>. Where a PPP agreement makes provision for or in connection with the transfer to a successor body<sup>20</sup> at any time of any shares in a PPP company, or of any key system assets, the relevant authority must ensure that the PPP agreement includes provision specifying, or providing for the determination of, the amounts which are to be paid in respect of those shares or key system assets<sup>21</sup>.

Transport for London may make schemes for the transfer of key system assets<sup>22</sup> from any of the following bodies to any to any other such body<sup>23</sup>: (i) Transport for London; (ii) any subsidiary of Transport for London; (iii) any PPP company; (iv) any PPP related third party<sup>24</sup>. A scheme under these provisions will not take effect unless and until it has been approved by the Mayor of London<sup>25</sup>. The transfers which may be made by virtue of a scheme include transfers taking effect before, on or after the expiration of the term of the PPP agreement or PPP related third party agreement by reference to which the transferor or transferee under the scheme falls within the list of bodies above<sup>26</sup>. No scheme for the transfer of key system assets from or to a PPP company, or a PPP related third party, may be made otherwise than in accordance with the terms of the PPP agreement or PPP related third party agreement by reference to which the PPP company or PPP related third party falls within the list of bodies above<sup>27</sup>. Further provision is made in relation to such schemes<sup>28</sup>.

1    le as provided by the Greater London Authority Act 1999 s 214(3).

2    'The relevant authority' means: (1) as respects any time before the transfer date, London Regional Transport; and (2) as respects any time on or after that date, Transport for London: Greater London Authority Act 1999 s 239(1). For the meaning of 'the transfer date' see PARA 316A.1.

3 In *ibid* Pt IV Ch VII (ss 210-239), 'key system assets' means: (1) any property, rights or liabilities which are, or are of a description, designated by a relevant body as key system assets in a PPP agreement as originally made; and (2) any property, rights or liabilities which are designated, or are of a description designated, by a relevant body after the making of a PPP agreement as key system assets in accordance with the terms of, or by an amendment made to, the PPP agreement: s 213(1). 'Relevant body' has the meaning given by s 210(2) (see PARA 368A.1): s 239(1). 'PPP agreement' has the meaning given by *ibid* s 210 (see PARA 316A.1): s 239(1).

The definition does not include any property, rights or liabilities which, in accordance with the terms of, or by an amendment made to, the PPP agreement, have for the time being ceased to be designated as key system assets: s 213(1). No rights or liabilities under contracts of employment will be designated as key system assets: s 213(2).

4 *Ibid* s 214(1).

5 *Ibid* s 214(2).

6 'PPP company' must be construed in accordance with *ibid* s 210(5) (see PARA 316A.1): s 239(1).

7 For the purposes of *ibid* s 214 the 'requisite copy documents', in the case of any particular key system asset or description of key system assets, are copies of: (1) the document which contains the designation under s 213(1) (see NOTE 3); and (2) such other documents (if any) as may be necessary to disclose the information which would (apart from s 214(3): see *infra*) be required to be stated in the register, or of such extracts from those documents as disclose the designation or, as the case may be, the information concerned: s 214(4).

8 *Ibid* s 214(3).

9 *Ibid* s 214(5).

10 *Ibid* s 214(6).

11 *Ibid* s 215(1).

12 Or a subsidiary of the PPP company or relevant authority: see *ibid* s 215(2).

13 Or a subsidiary of the relevant authority: see *ibid* s 215(3).

14 *Ibid* s 215(2), (3).

15 In *ibid* s 216 'security' has the meaning given by the Insolvency Act 1986 s 248(b) (see COMPANY AND PARTNERSHIP INSOLVENCY vol 7(3) (2004 Reissue) PARA 109): Greater London Authority Act 1999 s 216(8).

16 *Ibid* s 216(1).

17 *Ibid* s 216(2).

18 *Ibid* s 216(3).

19 *Ibid* s 216(4).

20 For these purposes, 'successor body' means a relevant body, a PPP company, or a PPP related third party: *ibid* s 216(6). Any reference in s 216 to a PPP company or PPP related third party includes a reference to a body or person which has been or is to be such a company or party: s 216(7).

21 *Ibid* s 216(5).

22 In *ibid* s 217 any reference to key system assets includes a reference to property, rights or liabilities which have been or are to be such assets: s 217(6)(a).

23 *Ibid* s 217(1).

24 *Ibid* s 217(2). In s 217 any reference to a PPP company or PPP related third party includes a reference to a body or person which has been or is to be such a company or party: s 217(6)(b).

25 *Ibid* s 217(3). As to the Mayor of London see PARA 81 *et seq*.

26 *Ibid* s 217(4). The list of bodies referred to is the list in s 217(2): see TEXT heads (i)-(iv).

27 *Ibid* s 217(5). As to the list of bodies see NOTE 26.

28 See *ibid* s 217(7), Sch 12.

### 3. Land

No enactment or rule of law regulating the rights and obligations of landlords and tenants will prejudice the operation of an agreement between a relevant body<sup>1</sup> and a PPP company<sup>2</sup> as to the terms on which land which is the subject of a PPP lease<sup>3</sup> is provided<sup>4</sup>. Accordingly no such enactment or rule of law applies in relation to the rights and obligations of the parties to a PPP lease so as to: (1) exclude or modify in any respect any of the rights and obligations of those parties under the terms of the PPP lease, whether with respect to the termination of the tenancy or any other matter; (2) confer or impose on any party any right or obligation arising out of or connected with anything done or omitted on or in relation to land which is the subject of the PPP lease, in addition to any such right or obligation provided for by the terms of the PPP lease; (3) restrict the enforcement (whether by action for damages or otherwise) by any party to the PPP lease of any obligation of any other party under the PPP lease<sup>5</sup>.

Provision is made with respect to land registration and PPP leases<sup>6</sup>.

1 For the meaning of 'the relevant body' see PARA 316A.1.

2 For the meaning of 'PPP company' see PARA 316A.1.

3 In the Greater London Authority Act 1999 Ch VII Pt IV (ss 210-239) 'PPP lease' means any lease (1) which constitutes a PPP agreement; (2) which is entered into in accordance with a PPP agreement; or (3) which is designated as a PPP lease: s 218(1). Any designation for the purposes of head (3) must be made by the same person, and in the same manner, as if it were a PPP designation: s 218(3). 'PPP designation' must be construed in accordance with s 212(1) (see PARA 316A.1): s 239(1). In s 218 'lease' includes an underlease and an agreement for a lease or underlease: s 218(6). For the meaning of 'PPP agreement' see PARA 316A.1.

An instrument containing a PPP lease must also contain, or have endorsed upon it, a certificate signed by or on behalf of the parties to the lease, and stating that the instrument contains a PPP lease: s 218(2).

4 *Ibid* s 218(4).

5 *Ibid* s 218(5).

6 See *ibid* s 219; and LAND REGISTRATION.

### 4. Insolvency

If, on an application made to the court<sup>1</sup> by petition presented by the Mayor of London<sup>2</sup>, the court is satisfied that either or both of specified grounds is satisfied in relation to that PPP company, the court may make a PPP administration order<sup>3</sup> in relation to that company<sup>4</sup>. The specified grounds are, in relation to any company: (1) that the company is or is likely to be unable to pay its debts<sup>5</sup>; (2) that, in a case in which the Secretary of State has certified that it would be appropriate for him to petition for the winding up of the company<sup>6</sup> it would be just and equitable<sup>7</sup> for the company to be wound up<sup>8</sup>. Notice<sup>9</sup> of any petition under these provisions for a PPP administration order must be given forthwith to such persons and in such manner as may be prescribed by rules<sup>10</sup>, and no such petition will be withdrawn except with the leave of the court<sup>11</sup>.

Where a petition for the winding up of a PPP company is presented by a person other than the Mayor of London, the court<sup>12</sup> must not make a winding-up order in relation to that company on that petition unless notice of the petition has been served on the Mayor, and a period of at least 14 days has elapsed since the service of that notice<sup>13</sup>. Where a petition for the winding up of a PPP company has been presented, the Mayor may, at any time before a winding-up order is made on the petition, make an application to the court for a PPP administration order in

relation to that company, and where such an application is made the court may, if it is satisfied<sup>14</sup>, make a PPP administration order instead of a winding-up order<sup>15</sup>.

No resolution for voluntary winding up<sup>16</sup> may be passed by a PPP company without leave of the court<sup>17</sup> granted on an application made for the purpose by the company<sup>18</sup>. No such leave may be granted unless notice of the application has been served on the Mayor of London, and a period of at least 14 days has elapsed since the service of that notice<sup>19</sup>. No administration order under the Insolvency Act 1986 Part II<sup>20</sup> may be made in relation to a PPP company unless notice of the application for the order has been served on the Mayor and a period of at least 14 days has elapsed since the service of that notice<sup>21</sup>. No step may be taken by any person to enforce any security over a PPP company's property, except where that person has served 14 days' notice of his intention to take that step on the Mayor<sup>22</sup>.

1 'The court', in the case of any PPP company, means the court having jurisdiction to wind up the company, or that would have jurisdiction apart from the Insolvency Act 1986 s 221(2) or 441(2): Greater London Authority Act 1999 s 220(7) (amended by SI 2009/1941). For the meaning of 'PPP company' see PARA 316A.1.

2 As to the Mayor of London see PARA 81 et seq. The functions of the Mayor under the Greater London Authority Act 1999 s 221 may be exercised by Transport for London (see PARA 256 et seq) acting as his agent, and where Transport for London so acts references to the Mayor must be construed accordingly: s 221(7).

3 A 'PPP administration order' is an order of the court made in accordance with *ibid* s 221, s 222 or s 223 in relation to a PPP company and directing that, during the period for which the order is in force, the affairs, business and property of the company will be managed, by a person appointed by the court, for the achievement of the purposes of such an order, and in a manner which protects the respective interests of the members and creditors of the company: s 220(1). 'Business' and 'property' have the same meaning as they have in the Insolvency Act 1986: Greater London Authority Act 1999 s 220(7). In s 221 'the court' has the same meaning as in s 220: s 221(8).

In the application of s 220(1) in a case where the PPP company there mentioned is a foreign company, the reference to the affairs, business and property of the company must be taken as a reference to the affairs and business of the company, so far as carried on in Great Britain, and the property of the company within Great Britain: s 224(2). 'Foreign company' means a company incorporated outside Great Britain: s 224(7).

The purposes of a PPP administration order made in relation to any company are: (1) the transfer to another company, or (as respects different parts of its undertaking) to two or more different companies, as a going concern, of so much of the company's undertaking as it is necessary to transfer in order to ensure that the relevant activities may be properly carried on; and (2) the carrying on of those relevant activities pending the making of the transfer: s 220(2). For the purposes of Pt IV Ch VII (ss 210-239), the 'relevant activities', in relation to a PPP company, are the activities carried out, or to be carried out, by that company in performing its obligations under the PPP agreement to which it is party: s 220(6). For the meaning of 'PPP agreement' see PARA 316A.1.

Schedule 14 has effect for applying provisions of the Insolvency Act 1986 where a PPP administration order is made: Greater London Authority Act 1999 s 220(3). Schedule 15 has effect for enabling provision to be made with respect to cases in which, in pursuance of a PPP administration order, another company is to carry on all or any of the relevant activities of a PPP company in place of that company: s 220(4). Without prejudice to Sch 14 para 20, the power conferred by the Insolvency Act 1986 s 411 (see COMPANY AND PARTNERSHIP INSOLVENCY vol 7(4) (2004 Reissue) PARA 1041) to make rules applies for the purpose of giving effect to the PPP administration order provisions of the Greater London Authority Act 1999 as it applies for the purpose of giving effect to the Insolvency Act 1986 Pts I-VII, but taking any reference in s 411 to those Parts as a reference to those provisions: Greater London Authority Act 1999 s 220(5). 'The PPP administration order provisions of the Greater London Authority Act 1999' means ss 220-224, Schs 14, 15: s 220(7). As to the approach of the court when considering whether a company qualifies as an 'other appointee' for the purposes of Sch 15, see *Re Metronet Rail BCV Ltd (in PPP administration)*; *Re Metronet Rail SSL Ltd (in PPP administration)* [2007] EWHC 2697 (Ch), [2008] 2 All ER 75.

As to the procedure for the conduct of PPP administration proceedings, see the PPP Administration Order Rules 2007, SI 2007/3141.

4 1999 Act s 221(1). The Insolvency Act 1986 s 9(4), (5) (powers on application for administration order: see COMPANY AND PARTNERSHIP INSOLVENCY vol 7(3) (2004 Reissue) PARA 154) applies on the hearing of the petition for a PPP administration order in relation to any company as it applies on the hearing of a petition for an administration order: Greater London Authority Act 1999 s 221(4). See further s 224(3).

The Insolvency Act 1986 s 10(1), (2), (4), (5) (effect of petition: see COMPANY AND PARTNERSHIP INSOLVENCY vol 7(3) (2004 Reissue) PARA 149) applies in the case of a petition for a PPP administration order in relation to any

company as if: (1) the reference in s 10(1) to an administration order were a reference to a PPP administration order; and (2) s 10(1)(b) did require the leave of the court for the taking of any of the steps mentioned in s 10(2)(b), (c) (appointment of, and exercise of functions by, administrative receiver): Greater London Authority Act 1999 s 221(5). See further s 224(4).

5 For the purposes of ibid s 221 a company is unable to pay its debts if: (1) it is a company which is deemed to be so unable under the Insolvency Act 1986 s 123 (definition of inability to pay debts) (see COMPANY AND PARTNERSHIP INSOLVENCY vol 7(4) (2004 Reissue) PARA 1226); or (2) it is an unregistered company, within the meaning of the 1986 Act Pt V (ss 220-229; see COMPANY AND PARTNERSHIP INSOLVENCY vol 7(4) (2004 Reissue) PARA 1147 et seq), which is deemed, by virtue of any of the 1986 Act ss 222-224, to be so unable for the purposes of the 1986 Act s 221 (winding up of unregistered companies): Greater London Authority Act 1999 s 221(6).

6 Ie under the Insolvency Act 1986 s 124A (petition by the Secretary of State following inspectors' report etc) (see COMPANY AND PARTNERSHIP INSOLVENCY vol 7(3) (2004 Reissue) PARA 444).

7 Ie as mentioned in ibid s 124A.

8 Greater London Authority Act 1999 s 221(2).

9 For the meaning of 'notice' see PARA 83.

10 Ie made under the Insolvency Act 1986 s 411 (see COMPANY AND PARTNERSHIP INSOLVENCY vol 7(4) (2004 Reissue) PARA 1041).

11 Greater London Authority Act 1999 s 221(3).

12 In ibid s 222 'the court' has the same meaning as in s 220: s 222(4).

13 Ibid s 222(1).

14 Ie as mentioned in ibid s 221(1).

15 Ibid s 222(2). Where, on a petition for the winding up of a PPP company, the court makes, or proposes to make, a PPP administration order by virtue of s 222(2), the Insolvency Act 1986 s 9(4), (5) (powers on application for administration order: see COMPANY AND PARTNERSHIP INSOLVENCY vol 7(3) (2004 Reissue) PARA 154) applies on the hearing of that petition as it applies on the hearing of a petition for an administration order: Greater London Authority Act 1999 s 222(3). See further s 224(3).

16 In ibid s 223 'resolution for voluntary winding up' has the same meaning as in the Insolvency Act 1986: Greater London Authority Act 1999 s 223(8).

17 In ibid s 223 'the court' has the same meaning as in s 220: s 223(8).

18 Ibid s 223(1). Where an application for leave under s 223(1) has been made by a PPP company, the Mayor may, at any time before leave has been granted under s 223(1), make an application to the court for a PPP administration order in relation to that company; and where such an application is made the court may, if it is satisfied as mentioned in s 221(1), make a PPP administration order instead of granting leave under s 223(1): s 223(3). Where, on an application for leave under s 223(1), the court makes, or proposes to make, a PPP administration order by virtue of s 223(3), the Insolvency Act 1986 s 9(4), (5) (powers on application for administration order: see COMPANY AND PARTNERSHIP INSOLVENCY vol 7(3) (2004 Reissue) PARA 154) applies on the hearing of that application as it applies on the hearing of a petition for an administration order: Greater London Authority Act 1999 s 223(4). Section 223(1)-(4) does not have effect in relation to a PPP company which is a foreign company: s 224(5).

19 Ibid s 223(2). Section 223(2) does not have effect in relation to a PPP company which is a foreign company: s 224(5).

20 Ie the Insolvency Act 1986 ss 8-27: see COMPANY AND PARTNERSHIP INSOLVENCY.

21 1999 Act s 223(5). Where an application for an administration order under the Insolvency Act 1986 Pt II has been made in the case of a PPP company, the Mayor may, at any time before such an order has been made on that application, make an application to the court for a PPP administration order in relation to that company, and where such an application is made the court may, if it is satisfied as mentioned in s 221(1), make a PPP administration order instead of an administration order under the Insolvency Act 1986 Pt II: Greater London Authority Act 1999 s 223(6).

22 Ibid s 223(7). For these purposes 'security' and 'property' have the same meaning as in the Insolvency Act 1986: Greater London Authority Act 1999 s 223(8). In the application of s 223(7) where the PPP company

there mentioned is a foreign company, the reference to the company's property must be taken as a reference to such of its property as is for the time being situated in Great Britain: s 224(6).

## 5. The PPP arbiter

The Secretary of State may appoint a person to an office to be known as 'the Public-Private Partnership Agreement Arbiter' (referred to as the 'PPP arbiter')<sup>1</sup>. The PPP arbiter has the functions conferred or imposed on him by or under the Greater London Authority Act 1999<sup>2</sup>, and is a corporation sole by the name of 'the Public-Private Partnership Agreement Arbiter'<sup>3</sup>. If at any time no person holds the office of PPP arbiter, the Secretary of State must appoint a person to that office if requested in writing to do so by a party to a PPP agreement<sup>4</sup>. Before making an appointment<sup>5</sup>, the Secretary of State must consult such persons as he considers appropriate concerning the person to be appointed and the terms of the appointment<sup>6</sup>. The office of PPP arbiter may not be held by: (1) the Mayor of London<sup>7</sup>; (2) an Assembly member<sup>8</sup>; (3) the Authority<sup>9</sup> or a member of staff of the Authority; (4) Transport for London<sup>10</sup> or a subsidiary<sup>11</sup> of Transport for London; (5) a member of Transport for London or a director of a subsidiary of Transport for London; (6) a member of staff of Transport for London or of a subsidiary of Transport for London; or (7) a director or employee of a PPP company<sup>12</sup> or of a subsidiary of a PPP company or of a company of which a PPP company is a subsidiary<sup>13</sup>.

A person appointed to be the PPP arbiter is appointed for such term as may be specified or described in the instrument appointing him and holds and vacates office as the PPP arbiter in accordance with the terms of his appointment<sup>14</sup>. There must be paid to the PPP arbiter such remuneration, and such travelling and other allowances, as the Secretary of State may determine<sup>15</sup>. There must be paid such pension, allowance or gratuity to or in respect of the PPP arbiter, or such contributions or payments towards provision for such a pension, allowance or gratuity, as the Secretary of State may determine<sup>16</sup>. A person may resign from office as the PPP arbiter at any time by giving notice<sup>17</sup> to the Secretary of State<sup>18</sup>. The Secretary of State may remove a person from office as the PPP arbiter on the ground of incapacity or misbehaviour, or where the Secretary of State considers that there has been unreasonable delay in the discharge of the functions of the PPP arbiter<sup>19</sup>.

The PPP arbiter is not liable for anything done or omitted in the discharge or purported discharge of his functions as the PPP arbiter unless the act or omission is shown to have been in bad faith<sup>20</sup>.

Provision is made with respect to expenses<sup>21</sup>.

1 Greater London Authority Act 1999 s 225(1).

2 Ibid s 225(2).

3 Ibid s 225(3).

4 Ibid s 225(4). For the meaning of 'PPP agreement' see PARA 316A.1. A request under s 225(4) must not include a request for a particular person to be appointed: s 225(5).

5 ie under ibid s 225(1) or (4).

6 Ibid s 225(6).

7 As to the Mayor of London see PARA 81 et seq.

8 As to the London Assembly see PARA 82 et seq.

9 ie the Greater London Authority: see PARA 79 et seq.

10 As to Transport for London see PARA 256 et seq.

11 For the meaning of 'subsidiary' PARA 288 NOTE 2.

- 12 For the meaning of 'PPP company' see PARA 316A.1.
- 13 Greater London Authority Act 1999 s 225(7).
- 14 Ibid s 226(1).
- 15 Ibid s 226(2).
- 16 Ibid s 226(3).
- 17 For the meaning of 'notice' see PARA 83.
- 18 Greater London Authority Act 1999 s 226(4).
- 19 Ibid s 226(5).
- 20 Ibid s 236(1). Section 236(1) applies to a member of the staff of, or an agent of, the PPP arbiter as it applies to the PPP arbiter: s 236(2).
- 21 See ibid s 237.

## **6. The PPP arbiter: staff**

The PPP arbiter<sup>1</sup> may appoint such staff as he may determine, subject to any restrictions contained in the terms of his appointment<sup>2</sup>. The staff of the PPP arbiter are appointed on such terms and conditions as he may determine, subject to any restrictions contained in the terms of his appointment<sup>3</sup>. Any function of the PPP arbiter may be exercised by any member of his staff authorised for the purpose by him or, if there is no person who holds the office of PPP arbiter, by the Secretary of State whether specially or generally<sup>4</sup>.

While a member of the Office of Rail Regulation<sup>5</sup> holds the office of PPP arbiter<sup>6</sup> (1) any member of the Office of Rail Regulations' staff may (in addition to discharging duties of that employment) be required also to discharge duties as if he were a member of the PPP arbiter's staff of similar status<sup>7</sup>; and (2) any member of the PPP arbiter's staff may (in addition to discharging duties of that employment) be required also to discharge duties as if he were a member of the Office of Rail Regulations' staff of similar status<sup>8</sup>.

- 1 As to the PPP arbiter see PARA 316A.5.
- 2 Greater London Authority Act 1999 s 227(1).
- 3 Ibid s 227(2).
- 4 Ibid s 227(3).
- 5 As to the Office of Rail Regulation see RAILWAYS, INLAND WATERWAYS AND CROSS-COUNTRY PIPELINES vol 39(1A) (Reissue) PARA 49 et seq.
- 6 Greater London Authority Act 1999 s 228(1) (substituted by Railways and Transport Safety Act 2003 Sch 2 para 23).
- 7 Greater London Authority Act 1999 s 228(2) (amended by the Railways and Transport Safety Act 2003 Sch 2 para 19).
- 8 Greater London Authority Act 1999 s 228(3) (as amended: see NOTE 7). Section 228(2), (3) apply notwithstanding anything in the terms or conditions of employment of the member of staff concerned: s 228(4).

## **7. Directions of and guidance by the PPP arbiter**

A PPP agreement<sup>1</sup> may provide for matters of any description specified in the agreement to be referred to the PPP arbiter<sup>2</sup>. A party to a PPP agreement may refer to the PPP arbiter for



direction any matter of a description specified in a provision of that agreement<sup>3</sup>. Where a matter is referred to the PPP arbiter for direction he must give a direction in relation to that matter, and may give a direction in relation to any other matter which is ancillary or incidental to the matter referred<sup>4</sup>. The directions that may be given include directions relating to the inclusion of new terms in, or the variation of existing terms of, the PPP agreement in question<sup>5</sup>. The PPP arbiter must give notice<sup>6</sup> of any direction to the parties to the PPP agreement in question<sup>7</sup>. A direction will be final and binding on the parties to the PPP agreement in question, and on any persons claiming through or under those parties, and will, if and to the extent that the notice given so provides, take effect as a term of the PPP agreement<sup>8</sup>.

Any matter relating to a PPP agreement may be referred to the PPP arbiter for consideration by him by all the parties to the PPP agreement acting jointly, if they so agree, or by any party to the PPP agreement<sup>9</sup>. Where a matter is so referred<sup>10</sup> to the PPP arbiter for consideration he must consider the matter and (1) if the matter was referred all the parties, must give to those parties such guidance as he considers appropriate; or (2) if the matter was not referred by all the parties, may give to the parties to the PPP agreement such guidance as he considers appropriate<sup>11</sup>.

In giving in relation to a PPP agreement any direction<sup>12</sup>, or any guidance<sup>13</sup>, the PPP arbiter must act in the way he considers best calculated to achieve specified objectives<sup>14</sup>. Further provision is made with respect to the powers of the PPP arbiter<sup>15</sup>.

1 For the meaning of 'PPP agreement' see PARA 316A.1.

2 Greater London Authority Act 1999 s 229(1). As to the PPP arbiter see PARA 316A.5.

3 Ie by virtue of ibid s 229(1): s 229(2).

4 Ibid s 229(3).

5 Ibid s 229(4).

6 For the meaning of 'notice' see PARA 83.

7 Greater London Authority Act 1999 s 229(5).

8 Ibid s 229(6). Where a direction has been given under s 229(3), the parties to the PPP agreement in question may jointly agree that s 229(6) is not to have effect in relation to that direction: s 229(7).

9 Ibid s 230(1).

10 Ie by virtue of ibid s 230(1).

11 Ibid s 230(2). The guidance which may be given by the PPP arbiter by virtue of s 230(2) includes guidance about any matter which he considers relevant to the PPP agreement in question: s 230(3).

Where the PPP arbiter has given any guidance under s 230 in relation to a matter which is subsequently referred to him for direction under s 229(3), the direction which may be given by the PPP arbiter under s 229(3) is not restricted by that guidance: s 230(4).

12 Ie under ibid s 229(3).

13 Ie under ibid s 230(2).

14 Ibid s 231(1). As to the specified objectives see s 231(2)-(5). See further s 231(6)-(8).

15 See ibid s 232.

## **8. Provision of information**

Certain persons must, at the request of the PPP arbiter<sup>1</sup>, provide him with such information as he considers relevant to the proper discharge of the functions conferred or imposed on him by

or under the Greater London Authority Act 1999 and as may be specified or described in the request<sup>2</sup>. Those persons are: (1) any party to a PPP agreement<sup>3</sup>; (2) any associate<sup>4</sup> of a party to a PPP agreement; and (3) any PPP related third party<sup>5</sup>. The information must be provided in such form and manner, and within such time, as may be specified in the request<sup>6</sup>. A person is not obliged by virtue of these provisions to answer any question or produce any document which he would be entitled to refuse to answer or produce in or for the purposes of proceedings in a court in England and Wales<sup>7</sup>.

If a person fails to comply with a request to provide information, the PPP arbiter may serve a notice<sup>8</sup> on that person requiring him to produce to the PPP arbiter, at a time and place specified in the notice, any documents which are specified or described in the notice and are in his custody or under his control, or to provide to the PPP arbiter, at a time and place and in the form and manner specified in the notice, such information as may be specified or described in the notice<sup>9</sup>. No person may be required to produce any documents which he could not be compelled to produce in civil proceedings in the court<sup>10</sup>, or, in complying with any requirement for the provision of information, to provide any information which he could not be compelled to give in evidence in any such proceedings<sup>11</sup>. A person who intentionally alters, suppresses or destroys any document which he has been required to produce by a notice is guilty of an offence and liable on summary conviction, to a fine not exceeding the statutory maximum, or on conviction on indictment, to a fine<sup>12</sup>. If a person makes default in complying with a notice, the court may, on the application of the PPP arbiter, make such order as the court thinks fit for requiring the default to be made good<sup>13</sup>. Any such order may provide that all the costs or expenses of and incidental to the application must be borne by the person in default or by any officers of a company or other association who are responsible for its default<sup>14</sup>.

No information with respect to any particular business which has been obtained by the PPP arbiter<sup>15</sup>, and which relates to the affairs of any individual or to any particular business, may, during the lifetime of that individual or so long as that business continues to be carried on, be disclosed without the consent of that individual or the person for the time being carrying on that business<sup>16</sup>. The foregoing provision does not apply to any disclosure of information which is made: (a) for the purpose of facilitating the carrying out by the Secretary of State, the Mayor of London<sup>17</sup>, Transport for London<sup>18</sup> or the PPP arbiter of any of his or, as the case may be, its, functions under the Greater London Authority Act 1999; (b) for the purpose of facilitating the carrying out by the Secretary of State, the Office of Rail Regulation<sup>19</sup>, the Competition Commission<sup>20</sup> or the Mayor of any of his or, as the case may be, its, functions under the Railways Act 1993 or the Railways Act 2005; (c) for the purpose of facilitating the carrying out by (i) any minister of the Crown<sup>21</sup>, (ii) the Office of Fair Trading<sup>22</sup>, (iii) the Competition Commission, (iv) the Office of Communications<sup>23</sup>, (v) the Gas and Electricity Markets Authority<sup>24</sup>, (vi) the Director General of Water Supply, (vii) the Civil Aviation Authority<sup>25</sup>, (viii) the Insolvency Practitioners Tribunal<sup>26</sup>, or (ix) a local weights and measures authority in Great Britain<sup>27</sup>, of any of his or, as the case may be, its, functions under any of the enactments or instruments specified<sup>28</sup>; (d) for the purpose of enabling or assisting the Secretary of State or the Treasury to exercise any powers conferred by the Financial Services Act 1986 or by the enactments relating to companies, insurance companies or insolvency or for the purpose of enabling or assisting any inspector appointed under the enactments relating to companies to carry out his functions; (e) for the purpose of enabling or assisting an official receiver to carry out his functions under the enactments relating to insolvency or for the purpose of enabling or assisting a recognised professional body<sup>29</sup> to carry out its functions as such; (f) for the purpose of facilitating the carrying out by the Health and Safety Commission or the Health and Safety Executive of any of its functions under any enactment or of facilitating the carrying out by any enforcing authority<sup>30</sup> of any functions under a relevant statutory provision<sup>31</sup>; (g) for the purpose of facilitating the carrying out by the Comptroller and Auditor General of any of his functions under any enactment; (h) for the purpose of facilitating the carrying out by the International Rail Regulator of any of his functions under any subordinate legislation made for the purpose of implementing EC Council Directive 91/440 on the development of the Community's railways or

EC Council Directive 95/19 on the allocation of railway infrastructure capacity and the charging of infrastructure fees; (i) in connection with the investigation of any criminal offence or for the purposes of any criminal proceedings; (j) for the purposes of any civil proceedings brought under or by virtue of the Greater London Authority Act 1999 or any of the enactments or instruments specified<sup>32</sup>; or (k) in pursuance of a Community obligation<sup>33</sup>.

1 As to the PPP arbiter see PARA 316A.5.

2 Greater London Authority Act 1999 s 233(1). The following enactments do not prevent or restrict the provision of information to the PPP arbiter: (1) Fair Trading Act 1973 s 133; (2) Consumer Credit Act 1974 s 174; (3) Estate Agents Act 1979 s 10; (4) Competition Act 1980 s 19; (5) Telecommunications Act 1984 s 101; (6) Airports Act 1986 s 74; (7) Consumer Protection Act 1987 s 38; (8) Water Industry Act 1991 s 206; (9) Water Resources Act 1991 s 204; (10) Railways Act 1993 s 145; (11) Competition Act 1998 s 55; (12) Utilities Act 2000 s 105; and (13) Enterprise Act 2002 s 237; Railways and Transport Safety Act 2003 s 115.

3 For the meaning of 'PPP agreement' see PARA 316A.1.

4 For the purposes of TEXT head (2), 'associate', in relation to a party to a PPP agreement, means: (1) a parent undertaking of that party; (2) a subsidiary undertaking of any parent undertaking of that party; (3) a subsidiary undertaking of that party; or (4) an undertaking in which that party, or any undertaking falling within heads (1)-(3), has a participating interest: Greater London Authority Act 1999 s 233(5). For the purposes of s 233(5) 'parent undertaking' and 'subsidiary undertaking' are to be construed in accordance with the Companies Act 2006 s 1162 (see COMPANIES vol 14 (2009) PARA 26); 'undertaking' has the meaning given by s 1161(1) (see COMPANIES vol 14 (2009) PARA 26); and 'participating interest' has the meaning given by the Financial Services and Markets Act 2000 s 421A (see FINANCIAL SERVICES AND INSTITUTIONS vol 48 (2008) PARA 351); Greater London Authority Act 1999 s 233(6) (amended by SI 2008/948).

5 Greater London Authority Act 1999 s 233(2). 'PPP related third party' must be construed in accordance with s 215(2)(b) (see PARA 316A.2): s 239(1).

6 Ibid s 233(3).

7 Ibid s 233(4).

8 For the meaning of 'notice' see PARA 83.

9 Greater London Authority Act 1999 s 234(1). Any reference to the production of a document includes a reference to the production of a legible and intelligible copy of information recorded otherwise than in legible form: s 234(6)(a).

10 In ibid s 234 'the court' means the High Court: s 234(7).

11 Ibid s 234(2).

12 Ibid s 234(3). In s 234 the reference to suppressing a document includes a reference to destroying the means of reproducing information recorded otherwise than in legible form: s 234(6)(b).

13 Ibid s 234(4).

14 Ibid s 234(5).

15 Ie under or by virtue of any of the provisions of ibid Pt IV Ch VII (ss 210-239).

16 Ibid s 235(1). The prohibition imposed by s 235(1) is enforceable by civil proceedings by the individual mentioned in that provision, or by the person for the time being carrying on the business there mentioned, for an injunction or for any other appropriate relief or remedy: s 235(5).

17 As to the Mayor of London see PARA 81 et seq.

18 As to Transport for London see PARA 256 et seq.

19 See PARA 59 et seq.

20 See COMPETITION vol 18 (2009) PARAS 9-12.

21 For the meaning of 'minister of the Crown' see PARA 368A.1.

- 22 See COMPETITION vol 18 (2009) PARAS 6-8.
- 23 See TELECOMMUNICATIONS vol 97 (2010) PARA 2 et seq.
- 24 See FUEL AND ENERGY vol 19(2) (2007 Reissue) PARA 708 et seq.
- 25 See AIR LAW vol 2 (2008) PARA 50 et seq.
- 26 See BANKRUPTCY AND INSOLVENCY; COMPANY AND PARTNERSHIP INSOLVENCY.
- 27 See WEIGHTS AND MEASURES vol 50 (2005 Reissue) PARA 20.
- 28 The enactments and instruments are: (1) Trade Descriptions Act 1968; (2) Fair Trading Act 1973; (3) Consumer Credit Act 1974; (4) Estate Agents Act 1979; (5) Competition Act 1980; (6) Telecommunications Act 1984; (7) Airports Act 1986; (8) Gas Act 1986; (9) Insolvency Act 1986; (10) Consumer Protection Act 1987; (11) Electricity Act 1989; (12) Property Misdescriptions Act 1991; (13) Water Industry Act 1991; (14) Water Resources Act 1991; (15) Railways Act 1993; (16) Competition Act 1998; (17) Enterprise Act 2002; (18) Communications Act 2003; (19) any subordinate legislation made for the purpose of securing compliance with European Parliament and EC Council Directive 2005/29 concerning unfair business-to-consumer commercial practices in the internal market; and (20) any subordinate legislation made for the purpose of securing compliance with European Parliament and EC Council Directive 2006/114 concerning misleading and comparative advertising: Greater London Authority Act 1999 s 235(3) (amended by Enterprise Act 2002 Sch 25 para 39; Communications Act 2003 Sch 17 para 157; SI 2000/311; and SI 2008/1277). 'Subordinate legislation' has the same meaning as in the Interpretation Act 1978 (see s 21(1); and STATUTES vol 44(1) (Reissue) PARA 1381); Greater London Authority Act 1999 s 424(1).
- 29 Ie for the purposes of the Insolvency Act 1986 s 391: see COMPANY AND PARTNERSHIP INSOLVENCY vol 7(3) (2004 Reissue) PARA 14.
- 30 Ie within the meaning of the Health and Safety at Work etc Act 1974 Pt I (ss 1-54).
- 31 Ie within the meaning of the Health and Safety at Work etc Act 1974.
- 32 Ie specified in the Greater London Authority Act 1999 s 235(3).
- 33 Ibid s 235(2) (amended by Transport Act 2000 s 215, Sch 16 para 66; Utilities Act 2000 s 3(2); Enterprise Act 2002 Sch 25 para 39; Communications Act 2003 Sch 17 para 157; Railways and Transport Safety Act 2003 Sch 2 para 19; Railways Act 2005 Sch 12 para 14(5), Sch 13 Pt 1; and the Railways Infrastructure (Access and Management) (Amendment) Regulations 2009, SI 2009/1122). The Secretary of State may by order provide that the 1999 Act s 235(2), (3) has effect subject to such modifications as are specified in the order: s 235(4).

## 9. Establishment of public-private partnership bodies

The Treasury<sup>1</sup> may (1) incur expenditure in respect of the establishment of a body<sup>2</sup> for the purpose of carrying on public-private partnership business<sup>3</sup>, (2) incur expenditure for the purposes of investing in the body, whether by acquiring assets, securities or rights or otherwise, and (3) provide loans and guarantees and make other kinds of financial provision to or in respect of the body<sup>4</sup>. The powers under heads (2) and (3) above may not be exercised in respect of more than one body, and may be exercised only in connection with public-private partnership business carried on or to be carried on by the body<sup>5</sup>.

'Public-private partnerships' means projects and undertakings<sup>6</sup> the resources<sup>7</sup> for which are provided partly by public bodies<sup>8</sup> and partly by private persons<sup>9</sup>.

The Treasury must ensure that the aggregate of outstanding expenditure under heads (2) and (3) above does not at any time exceed £400m<sup>10</sup>. Outstanding expenditure in respect of (a) the acquisition of assets, securities and rights is taken to be the aggregate of amounts paid for the acquisition of assets, securities and rights which have not been disposed of; (b) a loan is taken to be the amount outstanding in respect of the principal; (c) a guarantee is taken to be the aggregate of amounts which have been paid in fulfilment of it and in respect of which the Treasury has not been reimbursed; and the Treasury must make arrangements for evaluating

outstanding expenditure in respect of anything done under heads (2) or (3) above which is not addressed by heads (a)-(c) above<sup>11</sup>.

1 As to the Treasury see CONSTITUTIONAL LAW AND HUMAN RIGHTS vol 8(2) (Reissue) PARAS 512-517.

2 'Body' includes (1) a group of bodies, (2) a partnership or enterprise carried on by one or more persons or bodies, and (3) a body (including a body within the meaning of head (1) or (2) which is substantially the same as, or which is a successor to, another body: Government Resources and Accounts Act 2000 s 17(7).

3 'Public-private partnership business' means participation in public-private partnerships whether as an investor, a consultant or otherwise; and in particular, public-private partnership business includes the provision of advisory or financial services in connection with specific public-private partnerships or public-private partnerships generally, whether the services are provided to public bodies or to private persons, and whether or not the services are provided on terms and conditions about payment, consideration or other matters: *ibid* s 17(1), (2).

4 *Ibid* s 16(1). The Northern Ireland departments and the National Assembly for Wales may also incur such expenditure but only for the purpose of the acquisition from the Treasury of shares of a kind which are required by the body's articles of association to be issued to the Treasury (and which may be transferred by the Treasury), and such other forms of investment (whether by the acquisition of assets, securities, rights or otherwise) as the Treasury may specify by order: s 20(1), (3). The other forms of investment so specified are debt securities issued by a body, any shares in that body, and any securities issued by that body: Government Resources and Accounts Act 2000 (Investment by Devolved Administrations) (Public-Private Partnership Business) Order 2001, SI 2001/756, art 3.

5 Government Resources and Accounts Act 2000 s 16(2).

6 'Projects and undertakings' includes projects and undertakings carried on wholly or partly outside the United Kingdom, and a reference to public functions is not confined to public functions of the United Kingdom: *ibid* s 17(5).

7 'Resources' includes funds, assets, professional skills and any other kind of commercial resource: *ibid* s 17(4).

8 A public body is a government department or a body exercising public functions: *ibid* s 17(5).

9 *Ibid* s 17(3).

10 *Ibid* s 18(1). The Treasury may by order substitute a new amount for the amount for the time being specified: s 18(3).

11 *Ibid* s 18(2).

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### **317. Scope of transfer schemes.**

The property, rights and liabilities which may be transferred by a transfer scheme<sup>1</sup> include property, rights and liabilities which would not otherwise be capable of being transferred or assigned, and rights and liabilities under enactments<sup>2</sup>. No right of reverter, right of pre-emption, right of forfeiture, right of re-entry, right to compensation, option or similar right affecting any land or other property is to operate or become exercisable as a result of any transfer of land or other property by virtue of a transfer scheme whether or not any consent required to the transfer has been obtained<sup>3</sup>. No right to terminate or vary a contract or instrument is to operate or become exercisable, and no provision of a contract or relevant document<sup>4</sup> is to operate or become exercisable or be contravened, by reason of any transfer by virtue of a transfer scheme<sup>5</sup>. For purposes connected with any transfers, including transfers of rights and liabilities under an enactment, made by virtue of a transfer scheme, or by virtue of an instrument or agreement made in connection with a transfer scheme, a body or person to which anything is transferred by any such transfer is to be treated as the same person in law as the body or person from which that thing is transferred, except as otherwise provided in the transfer scheme, instrument or agreement<sup>6</sup>.

A transfer scheme may make provision for the apportionment or division of any property, rights or liabilities<sup>7</sup>. Where a transfer scheme makes provision for the apportionment or division between two or more persons of any rights or liabilities under a contract, the contract has effect, as from the coming into force of the provision, as if it constituted two or more separate contracts separately enforceable by and against each of those persons respectively as respects the part of the rights or liabilities which falls to him as a result of the apportionment or division<sup>8</sup>.

A transfer scheme may define the property, rights and liabilities to be transferred: (1) by specifying or describing them<sup>9</sup>; (2) by referring to all, or all except anything specified or described, of the property, rights and liabilities comprised in a specified part of the undertaking of the transferor<sup>10</sup>; or (3) partly in the one way and partly in the other<sup>11</sup>.

1 For these purposes, 'transfer scheme' means a scheme under the Greater London Authority Act 1999 s 165 or s 217 (see PARA 316 post): Sch 12 para 1.

2 Ibid Sch 12 para 2(1).

3 Ibid Sch 12 para 2(2). The provisions of Sch 12 para 2(2)-(5) have effect in relation to the grant or creation of an estate or interest in, or right over, any land or other property, or the doing of any other thing in relation to land or other property, as they have effect in relation to a transfer of land or other property: Sch 12 para 2(6).

4 For these purposes, 'relevant document' means: (1) any enactment, other than an enactment contained in the Greater London Authority Act 1999 (Sch 12 para 2(7)(a)); (2) any subordinate legislation made otherwise than under that Act (Sch 12 para 2(7)(b)); or (3) any deed or other instrument (Sch 12 para 2(7)(c)).

5 Ibid Sch 12 para 2(3). See note 3 supra.

6 Ibid Sch 12 para 2(4). Sch 12 para 2(4) is without prejudice to s 415 (continuity) (see PARA 27 ante) or any other provision made by or under the Greater London Authority Act 1999 which makes transitional provision in relation to a transfer: Sch 12 para 2(5). See note 3 supra.

7 Ibid Sch 12 para 3(1).

8 Ibid Sch 12 para 3(2).

9 Ibid Sch 12 para 4(a).

10 Ibid Sch 12 para 4(b). For these purposes, 'transferor' means the person from whom property, rights or liabilities are transferred by a transfer scheme: Sch 12 para 1.

11 Ibid Sch 12 para 4(c).

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### **318. Other provision that may be made by transfer schemes.**

The provision that may be made by a transfer scheme<sup>1</sup> includes provision for:

- 489 (1) the creation, in relation to any land or other property which the scheme transfers, of an estate or interest in or right over the property in favour of the transferor<sup>2</sup>;
- 490 (2) the creation, in favour of a transferee, of an estate or interest in or right over any land or other property retained by the transferor or transferred by the scheme to another transferee<sup>3</sup>;
- 491 (3) the creation of rights or liabilities as between two or more transferees or as between one or more transferees and the transferor<sup>4</sup>;
- 492 (4) any rights or liabilities specified or described in the scheme to be, or to be to any extent, enforceable by or against two or more transferees, or by or against one or more transferees and the transferor<sup>5</sup>;
- 493 (5) imposing on the transferor or a transferee an obligation to enter into written agreements with, or execute other instruments in favour of, the transferor, or that or any other transferee, or such other person as may be specified in the scheme<sup>6</sup>.

The provision that may be made by a transfer scheme includes provision for transfers to take effect at such time of day as may be specified in the order<sup>7</sup>.

A transfer scheme may provide that any functions of the transferor under a relevant statutory provision<sup>8</sup> are to be (a) transferred to the transferee<sup>9</sup>; (b) concurrently exercisable by two or more transferees<sup>10</sup>; or (c) concurrently exercisable by the transferor and one or more transferees<sup>11</sup>. A transfer scheme which makes such provision<sup>12</sup> does not have effect unless and until it is confirmed by an order made by the Secretary of State<sup>13</sup>.

A transfer scheme may make such supplementary, incidental, consequential or transitional provision, or savings, as Transport for London considers appropriate<sup>14</sup>.

1 For the meaning of 'transfer scheme' see PARA 317 note 1 ante.

2 Greater London Authority Act 1999 s 165(4), Sch 12 para 5(1)(a). For the meaning of 'transferor' see PARA 317 note 10 ante.

3 Ibid Sch 12 para 5(1)(b). For these purposes, 'transferee' means a person to whom any such property, rights or liabilities are so transferred: Sch 12 para 1.

4 Ibid Sch 12 para 5(1)(c).

5 Ibid Sch 12 para 5(1)(d).

6 Ibid Sch 12 para 5(1)(e).

7 Ibid Sch 12 para 5(2).

8 For these purposes, 'relevant statutory provision' means any provision, whether of a general or of a special nature, contained in, or in any document made or issued under any local Act, or any order under the Transport and Works Act 1992: Greater London Authority Act 1999 Sch 12 para 7(4).



9 Ibid Sch 12 para 7(1)(a). The provisions of Sch 12 para 7(1) apply in relation to any function under a relevant statutory provision if and to the extent that the relevant statutory provision: (1) relates to any property which is to be transferred by the scheme; or (2) authorises the carrying out of works designed to be used in connection with any such property or the acquisition of land for the purpose of carrying out any such works: Sch 12 para 7(2).

10 Ibid Sch 12 para 7(1)(b). See note 9 supra.

11 Ibid Sch 12 para 7(1)(c). See note 9 supra.

12 Ie by virtue of ibid Sch 12 para 7: see the text and notes 8-11 supra.

13 Ibid Sch 12 para 7(4).

14 Ibid Sch 12 para 6.

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/4. TRANSPORT IN LONDON/(3) TRANSPORT FOR LONDON/(iv) Functions, Powers and Duties of Transport for London/C. LAND AND PROPERTY/319. Effect of transfer schemes.

### **319. Effect of transfer schemes.**

On the date appointed by a transfer scheme<sup>1</sup>, the property, rights and liabilities which are the subject of the scheme are, transferred in accordance with the provisions of the scheme<sup>2</sup>.

Nothing in the Greater London Authority Act 1999 affects the validity of anything done by or in relation to the transferor<sup>3</sup> in connection with anything transferred by a transfer scheme<sup>4</sup>.

There may be continued by or in relation to the transferee<sup>5</sup> anything, including legal proceedings, which relates to anything transferred by a transfer scheme<sup>6</sup>, and which is in the process of being done by or in relation to the transferor<sup>7</sup> immediately before the transfer takes effect<sup>8</sup>. Anything which was done by the transferor for the purposes of or otherwise in connection with anything transferred by a transfer scheme<sup>9</sup>, and which is in effect immediately before the transfer takes effect<sup>10</sup>, has effect as if done by the transferee<sup>11</sup>. The transferee must be substituted for the transferor in any instruments, contracts or legal proceedings which relate to anything transferred by a transfer scheme, and which are made or commenced before the transfer takes effect<sup>12</sup>.

1 For the meaning of 'transfer scheme' see PARA 317 note 1 ante.

2 Greater London Authority Act 1999 s 165(4), Sch 12 para 8.

3 For the meaning of 'transferor' see PARA 317 note 10 ante.

4 Greater London Authority Act 1999 Sch 12 para 9(1).

5 For the meaning of 'transferee' see PARA 318 note 3 ante.

6 Greater London Authority Act 1999 Sch 12 para 9(2)(a).

7 Any reference in *ibid* Sch 12 para 9 to anything done by or in relation to the transferor includes a reference to anything which by virtue of any enactment is treated as having been done by or in relation to the transferor: Sch 12 para 9(5).

8 *Ibid* Sch 12 para 9(2)(b).

9 *Ibid* Sch 12 para 9(3)(a).

10 *Ibid* Sch 12 para 9(3)(b).

11 *Ibid* Sch 12 para 9(3).

12 *Ibid* Sch 12 para 9(4).

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/4. TRANSPORT IN LONDON/(3) TRANSPORT FOR LONDON/(iv) Functions, Powers and Duties of Transport for London/C. LAND AND PROPERTY/320. Transfer of employees under transfer schemes.

### **320. Transfer of employees under transfer schemes.**

Where a person employed by the transferor<sup>1</sup> becomes an employee of the transferee<sup>2</sup> by virtue of a transfer scheme<sup>3</sup>, anything done by or in relation to the transferor in respect of the employee before the day on which the transfer takes effect is to be treated on and after that day as done by or in relation to the transferee<sup>4</sup>. For the purposes of Part XI of the Employment Rights Act 1996<sup>5</sup> the employee is not to be regarded as having been dismissed by virtue of the transfer<sup>6</sup>. For the purposes of that Act, the employee's period of employment with the transferor counts as a period of employment with the transferee<sup>7</sup>, and the change of employment does not break the continuity of the period of employment<sup>8</sup>.

1 For the meaning of 'transferor' see PARA 317 note 10 ante.

2 For the meaning of 'transferee' see PARA 318 note 3 ante.

3 Greater London Authority Act 1999 s 165(4), Sch 12 para 10(1). For the meaning of 'transfer scheme' see PARA 317 note 1 ante.

4 Ibid Sch 12 para 10(2).

5 I.e. the Employment Rights Act 1996 Pt XI (ss 135-181) (as amended) (redundancy payments etc): see EMPLOYMENT vol 40 (2009) PARA 790 et seq.

6 Greater London Authority Act 1999 Sch 12 para 10(3).

7 Ibid Sch 12 para 10(4)(a).

8 Ibid Sch 12 para 10(4)(b).

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/4. TRANSPORT IN LONDON/(3) TRANSPORT FOR LONDON/(iv) Functions, Powers and Duties of Transport for London/C. LAND AND PROPERTY/321. Modification of transfer schemes.

### **321. Modification of transfer schemes.**

If at any time after a transfer scheme<sup>1</sup> has come into force (1) the transferor<sup>2</sup>; (2) any transferee<sup>3</sup> affected<sup>4</sup>; and (3) Transport for London<sup>5</sup> (if not falling within head (1) or head (2) above<sup>6</sup>) so agree in writing, the scheme is for all purposes deemed to have come into force with such modifications as may be specified in the agreement<sup>7</sup>. This does not apply in relation to modifications relating to the transfer of rights and liabilities under a contract of employment, unless the employee concerned is a party to the agreement<sup>8</sup>. Such an agreement may make, with effect from the coming into force of the scheme, such provision as could have been made by the scheme<sup>9</sup>, and in connection with giving effect to that provision from that time, may contain incidental, supplemental, consequential or transitional provision<sup>10</sup>.

Transport for London may only enter into such an agreement with the consent of the Mayor of London<sup>11</sup>.

1 For the meaning of 'transfer scheme' see PARA 317 note 1 ante.

2 Greater London Authority Act 1999 s 165(4), Sch 12 para 12(1)(a). For the meaning of 'transferor' see PARA 317 note 10 ante.

3 For the meaning of 'transferee' see PARA 318 note 3 ante.

4 Greater London Authority Act 1999 Sch 12 para 12(1)(b).

5 As to the establishment of Transport for London see PARA 270 ante.

6 Greater London Authority Act 1999 Sch 12 para 12(1)(c).

7 Ibid Sch 12 para 12(1).

8 Ibid Sch 12 para 12(2).

9 Ibid Sch 12 para 12(3)(a).

10 Ibid Sch 12 para 12(3)(b).

11 Ibid Sch 12 para 12(4). The Mayor, in giving his consent under Sch 12 para 12(4) to an agreement in respect of a scheme under s 165 (see the text and notes 1-10 supra and PARAS 316-320 ante), may make it a condition of the consent that such further modifications to the scheme as he may specify in giving the consent are to be included in the agreement: Sch 12 para 12(5). No modification may be specified by the Mayor under Sch 12 para 12(5) which could not have been included in the agreement apart from Sch 12 para 12(5): Sch para 12(6).

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/4. TRANSPORT IN LONDON/(4) LONDON TRANSPORT USERS' COMMITTEE/322. Establishment.

## **(4) LONDON TRANSPORT USERS' COMMITTEE**

### **322. Establishment.**

The Greater London Authority Act 1999 abolished the London Regional Passengers' Committee<sup>1</sup> which had been established by the London Regional Transport Act 1984<sup>2</sup> and created a body corporate known as the London Transport Users' Committee<sup>3</sup>. The London Transport Users' Committee's principal functions are conferred on it by the Greater London Authority Act 1999<sup>4</sup>.

1 See the Greater London Authority Act 1999 s 246. The abolition was effected by providing that the London Regional Transport Act 1984 s 40 (which established the London Regional Passengers' Committee) ceased to have effect (see the Greater London Authority Act 1999 s 246(1)) and that any appointment to that Committee also ceased to have effect (see s 246(2)).

2 See the London Regional Transport Act 1984 ss 40, 41 Sch 3 (repealed).

3 See the Greater London Authority Act 1999 s 247(1). The London Transport Users' Committee is an authority subject to investigation under the Local Government Act 1974 Pt III (ss 23-34) (as amended) (local government administration) (see LOCAL GOVERNMENT vol 69 (2009) PARAS 839-866): s 25(1)(e) (added by the Greater London Authority Act 1999 s 247(7), Sch 18 para 16(1), (2)). Any reference to an authority to which the Local Government Act 1974 Pt III (as amended) applies includes, in the case of the London Transport Users' Committee, a reference to a sub-committee of that Committee: s 25(4B) (added by the Greater London Authority Act 1999 Sch 18 para 16(1), (3)). As to sub-committees of the London Transport Users' Committee see PARA 328 post.

4 See PARAS 323-333 post.

## **UPDATE**

### **322-333 London Transport Users' Committee**

Provision is made for the London Transport Users' Committee to continue to have functions it previously had by virtue of being treated as a Rail Passengers' Committee: Greater London Authority 1999 ss 252A-252E (added by Railways Act 2005 s 21(3), Sch 6 paras 2-4).

### **322 Establishment**

NOTE 3--Local Government Act 1974 s 25(4B) repealed: Local Government and Public Involvement in Health Act 2007 Sch 18 Pt 14.

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/4. TRANSPORT IN LONDON/(4) LONDON TRANSPORT USERS' COMMITTEE/323. Membership.

### **323. Membership.**

The London Transport Users' Committee<sup>1</sup> consists of a chairman and not more than 24 other members appointed by the London Assembly after consultation with the Strategic Rail Authority<sup>2</sup>. In appointing members, the Assembly must have regard to the desirability of ensuring that the members of the Committee between them represent the interests of those who use passenger transport facilities and services in Greater London<sup>3</sup>, and those who use rail passenger transport facilities and services in the area for which the Committee is treated<sup>4</sup> as the Rail Passengers' Committee<sup>5</sup>. A person may not be so appointed if he is:

- 494 (1) an Assembly member<sup>6</sup>;
- 495 (2) a member of Transport for London<sup>7</sup>;
- 496 (3) a member of staff of Transport for London<sup>8</sup>; or
- 497 (4) a member of staff of the Greater London Authority<sup>9</sup>.

If, at any time after he is appointed, a member of the Committee becomes a person within heads (1) to (4) above, he ceases to be a member of the Committee<sup>10</sup>. The Assembly may designate one or more members of the Committee to be deputy chairman or, as the case may be, deputy chairmen of the Committee<sup>11</sup>.

1 As to the establishment of the London Transport Users' Committee see PARA 322 ante.

2 Greater London Authority Act 1999 s 247(2) (amended by the Transport Act 2000 s 252, Sch 27 paras 57, 60). As to the London Assembly see PARA 82 ante. As to the Strategic Rail Authority see RAILWAYS, INLAND WATERWAYS AND CROSS-COUNTRY PIPELINES. vol 39(1A) (Reissue) PARA 46 et seq.

3 Greater London Authority Act 1999 s 247(3)(a). As to Greater London see PARA 29 ante.

4 I.e. by virtue of the Railways Act 1993 s 2(4) (as amended).

5 Greater London Authority Act 1999 s 247(3)(b) (amended by the Transport Act 2000 s 227, Sch 22 paras 21, 22).

6 Greater London Authority Act 1999 s 247(4)(a). For the meaning of 'Assembly member' see PARA 82 note 3 ante.

7 Ibid s 247(4)(b). As to the establishment of Transport for London see PARA 270 ante.

8 Ibid s 247(4)(c). As to the appointment of staff by Transport for London see PARA 280 ante.

9 Ibid s 247(4)(d). 'Member of staff' in relation to the Greater London Authority, means a person appointed under ibid s 67(1) or (2) (see PARAS 133-135 ante): s 424(1). As to the establishment of the Greater London Authority see PARA 79 ante.

10 Ibid s 247(5).

11 Ibid s 247(6).

## **UPDATE**

### **322-333 London Transport Users' Committee**

Provision is made for the London Transport Users' Committee to continue to have functions it previously had by virtue of being treated as a Rail Passengers' Committee: Greater London Authority 1999 ss 252A-252E (added by Railways Act 2005 s 21(3), Sch 6 paras 2-4).

### **323 Membership**

TEXT AND NOTE 2--In Greater London Authority Act 1999 s 247(2) for 'Strategic Rail Authority' now read 'Secretary of State': Railways Act 2005 Sch 12 para 14(7).

TEXT AND NOTE 5--Greater London Authority Act 1999 s 247(3)(b) further amended, Transport Act 2000 Sch 22 para 22 repealed: Railways Act 2005 Sch 6 para 1, Sch 13 Pt 1.

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/4. TRANSPORT IN LONDON/(4) LONDON TRANSPORT USERS' COMMITTEE/324. Officers.

### **324. Officers.**

The London Transport Users' Committee<sup>1</sup> may appoint such officers as appear to the Committee to be requisite for the performance of its functions<sup>2</sup>. Such appointments are to be made in accordance with any rules of appointment made by the Greater London Authority<sup>3</sup>, and are subject to the approval of the London Assembly<sup>4</sup>.

1 As to the establishment of the London Transport Users' Committee see PARA 322 ante.

2 Greater London Authority Act 1999 s 247(7), Sch 18 para 5(1). Employment with the Committee is included among the kinds of employment to which a scheme under the Superannuation Act 1972 s 1 (see SOCIAL SECURITY AND PENSIONS vol 44(2) (Reissue) PARAS 875-876) can apply: Greater London Authority Act 1999 s 389(1)(e). See also the Superannuation Act 1972 Sch 1 (amended by the Greater London Authority Act 1999 s 389(2)); and ss 389(3)-(6), 390.

3 Ibid Sch 18 para 5(2)(a). As to the Greater London Authority see PARA 79 et seq ante.

4 Ibid Sch 18 para 5(2)(b). As to the London Assembly see PARA 82 ante.

### **UPDATE**

#### **322-333 London Transport Users' Committee**

Provision is made for the London Transport Users' Committee to continue to have functions it previously had by virtue of being treated as a Rail Passengers' Committee: Greater London Authority 1999 ss 252A-252E (added by Railways Act 2005 s 21(3), Sch 6 paras 2-4).



Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/4. TRANSPORT IN LONDON/(4) LONDON TRANSPORT USERS' COMMITTEE/325. Remuneration, pensions, allowances and expenses.

### **325. Remuneration, pensions, allowances and expenses.**

If the London Assembly<sup>1</sup> so determines, there must be paid to the chairman and other members of the London Transport Users' Committee<sup>2</sup> such remuneration as the Assembly may determine<sup>3</sup>. If a person in receipt of such remuneration ceases to hold office, and it appears to the Assembly that there are special circumstances which make it right that that person should receive compensation, he must be paid by way of compensation a sum of such amount as the Assembly may determine<sup>4</sup>. If the Assembly so determines in the case of a person who has been remunerated as chairman, a pension must be paid to or in respect of that person, or payments towards the provision of a pension to or in respect of that person must be made, in accordance with the determination<sup>5</sup>. The Assembly must provide the Committee with funds with which to make payments in accordance with any determination made by the Assembly under the provisions described above<sup>6</sup>.

The Assembly must provide the Committee with funds with which to pay to its members such travelling and other allowances as the Assembly may determine<sup>7</sup>, and with which to pay to its officers such remuneration and such travelling and other allowances as the Committee may with the approval of the Assembly determine<sup>8</sup>.

There must be paid such pensions, or arrangements must be made for the payment of such pensions, as the Assembly may determine to or in respect of such persons who are or have been officers of the Committee as the Assembly may determine<sup>9</sup>. The Assembly must provide the Committee with funds with which to pay any such pension or to finance any such arrangements<sup>10</sup>.

The Assembly must also provide the Committee with funds with which to defray such other expenses in connection with the Committee's functions as the Assembly may determine to be appropriate<sup>11</sup>. The Committee must prepare and send to the Assembly not less than two months, or such other period as the Assembly may specify, before the beginning of each financial year<sup>12</sup> a statement of the expenses which it expects to incur in respect of that year for the purposes of, or in connection with, the carrying on of its functions<sup>13</sup>. The Assembly must consider any such statement sent to it and must either approve the statement or approve it with such modifications as it considers appropriate<sup>14</sup>.

1 As to the London Assembly see PARA 82 ante.

2 As to the establishment of the London Transport Users' Committee see PARA 322 ante.

3 Greater London Authority Act 1999 s 247(7), Sch 18 para 1 (amended by the Transport Act 2000 s 252, Sch 27 paras 57, 62(1), (2)).

4 See the Greater London Authority Act 1999 Sch 18 para 3 (amended by the Transport Act 2000 Sch 27 paras 57, 62(1), (4)).

5 See the Greater London Authority Act 1999 Sch 18 para 2 (amended by the Transport Act 2000 Sch 27 paras 57, 62(1), (3)).

6 Greater London Authority Act 1999 Sch 18 para 4. The provisions referred to in the text are those of Sch 18 paras 1-3 (all as amended): see the text and notes 1-5 supra.

7 Ibid Sch 18 para 6(1)(a).

- 8 Ibid Sch 18 para 6(1)(b).
- 9 Ibid Sch 18 para 7(1).
- 10 Ibid Sch 18 para 7(2).
- 11 Ibid Sch 18 para 6(2).
- 12 For the meaning of 'financial year' see PARA 131 note 21 ante.
- 13 Greater London Authority Act 1999 Sch 18 para 6(3).
- 14 Ibid Sch 18 para 6(4).

## **UPDATE**

### **322-333 London Transport Users' Committee**

Provision is made for the London Transport Users' Committee to continue to have functions it previously had by virtue of being treated as a Rail Passengers' Committee: Greater London Authority 1999 ss 252A-252E (added by Railways Act 2005 s 21(3), Sch 6 paras 2-4).

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/4. TRANSPORT IN LONDON/(4) LONDON TRANSPORT USERS' COMMITTEE/326. Accounts.

### **326. Accounts.**

The London Transport Users' Committee<sup>1</sup> must keep accounting records which:

- 498 (1) set out and explain the Committee's financial transactions<sup>2</sup>;
- 499 (2) disclose with reasonable accuracy the financial status of the Committee at any time<sup>3</sup>; and
- 500 (3) enable the Committee to comply with the requirements of the Greater London Authority Act 1999 in preparing any statement of accounts<sup>4</sup>.

The Committee must prepare in respect of each financial year<sup>5</sup> a statement of accounts giving a true and fair view of the Committee's financial status at the end of that year<sup>6</sup>, and the Committee's income and expenditure for that year<sup>7</sup>.

If the London Assembly issues guidance<sup>8</sup> to the Committee as to the preparation of a statement of accounts, the Committee must prepare the statement of accounts in compliance with it<sup>9</sup>. A statement of accounts must be audited by a person appointed by the Assembly as auditor to do so<sup>10</sup>. A person is not qualified to be appointed as auditor unless:

- 501 (a) he is eligible for appointment as a company auditor under Part II of the Companies Act 1989<sup>11</sup>; and
- 502 (b) if the Committee were a company to which the provision of the Companies Act 1985 relating to the duty to appoint auditors applies<sup>12</sup>, he would not be ineligible for appointment as company auditor of the Committee by virtue of the provision of the Companies Act 1989<sup>13</sup> relating to ineligibility on the ground of lack of independence<sup>14</sup>.

As soon as reasonably practicable after a statement of accounts has been audited, the auditor must send a copy to the Assembly<sup>15</sup>.

1 As to the establishment of the London Transport Users' Committee see PARA 322 ante.

2 Greater London Authority Act 1999 s 247(7), Sch 18 para 8(1)(a).

3 Ibid Sch 18 para 8(1)(b).

4 Ibid Sch 18 para 8(1)(c).

5 For the meaning of 'financial year' see PARA 131 note 21 ante. The Committee's financial year is such period as may be determined by the London Assembly and notified to the Committee: *ibid* Sch 18 para 8(7). As to the London Assembly see PARA 82 et seq ante.

6 Ibid Sch 18 para 8(2)(a).

7 Ibid Sch 18 para 8(2)(b).

8 For the meaning of 'guidance' see PARA 96 note 2 ante.

9 Greater London Authority Act 1999 Sch 18 para 8(3).

10 Ibid Sch 18 para 8(4).

- 11 Ibid Sch 18 para 8(5)(a). The provision referred to in the text is the Companies Act 1989 Pt II (ss 24-54) (eligibility for appointment as company auditor): see COMPANIES vol 15 (2009) PARA 958 et seq.
- 12 Ie the Companies Act 1985 s 384 (as substituted and amended): see COMPANIES vol 15 (2009) PARA 912.
- 13 Ie the Companies Act 1989 s 27: see COMPANIES vol 15 (2009) PARA 971.
- 14 Greater London Authority Act 1999 Sch 18 para 8(5)(b).
- 15 Ibid Sch 18 para 8(6).

## **UPDATE**

### **322-333 London Transport Users' Committee**

Provision is made for the London Transport Users' Committee to continue to have functions it previously had by virtue of being treated as a Rail Passengers' Committee: Greater London Authority 1999 ss 252A-252E (added by Railways Act 2005 s 21(3), Sch 6 paras 2-4).

### **326 Accounts**

TEXT AND NOTES 11-14--1999 Act Sch 18 para 8(5)(a), (b) amended to take account of the coming into force of the Companies Act 2006: SI 2008/948.

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/4. TRANSPORT IN LONDON/(4) LONDON TRANSPORT USERS' COMMITTEE/327. Accommodation.

### **327. Accommodation.**

The London Assembly<sup>1</sup> may after consultation with the Strategic Rail Authority<sup>2</sup> make arrangements for the London Transport Users' Committee<sup>3</sup> to be provided with office accommodation<sup>4</sup>.

1 As to the London Assembly see PARA 82 ante.

2 As to the Strategic Rail Authority see RAILWAYS, INLAND WATERWAYS AND CROSS-COUNTRY PIPELINES 39(1A) (Reissue) PARA 46 et seq.

3 As to the establishment of the London Transport Users' Committee see PARA 322 ante.

4 Greater London Authority 1999 s 247(7), Sch 18 para 9 (amended by the Transport Act 2000 s 252, Sch 27 paras 57, 62(1), (5)).

### **UPDATE**

#### **322-333 London Transport Users' Committee**

Provision is made for the London Transport Users' Committee to continue to have functions it previously had by virtue of being treated as a Rail Passengers' Committee: Greater London Authority 1999 ss 252A-252E (added by Railways Act 2005 s 21(3), Sch 6 paras 2-4).

### **327 Accommodation**

TEXT AND NOTE 2--For 'Strategic Rail Authority' now read 'Secretary of State': Railways Act 2005 Sch 12 para 14(9).

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/4. TRANSPORT IN LONDON/(4) LONDON TRANSPORT USERS' COMMITTEE/328. Procedure.

### **328. Procedure.**

The persons appointed to be members of the London Transport Users' Committee<sup>1</sup> hold and vacate office in accordance with the terms of their respective appointments and are, on ceasing to be members of the Committee, eligible for re-appointment<sup>2</sup>. Any person so appointed may at any time by notice<sup>3</sup> in writing to the London Assembly<sup>4</sup> resign his office<sup>5</sup>.

The Committee is required to meet at least twice a year and whenever convened by the chairman<sup>6</sup>. Without prejudice to the discretion of the chairman<sup>7</sup> to call a meeting whenever he thinks fit, he must call a meeting when required to do so by any three members of the Committee<sup>8</sup>. Minutes must be kept of the proceedings of every meeting of the Committee, and copies of those minutes must be sent to the Assembly, the Strategic Rail Authority<sup>9</sup> and the Rail Passengers' Council<sup>10</sup>. The Committee must determine its own procedure, including the quorum at its meetings<sup>11</sup>.

The Committee may delegate the exercise and performance of any of its functions to such of its sub-committees as it thinks fit<sup>12</sup>. A sub-committee of the Committee may with the consent of the Assembly include persons who are not members of the Committee<sup>13</sup>. Where a person who is not a member of the Committee is a member of such a sub-committee, the Committee may pay to that person such travelling and other allowances in respect of that person's membership of the sub-committee as the Committee may determine<sup>14</sup>.

The validity of any proceedings of the Committee is not affected by any vacancy amongst the members or by any defects in the appointment of a member<sup>15</sup>.

1 As to the establishment of the London Transport Users' Committee see PARA 322 ante.

2 Greater London Authority Act 1999 s 247(7), Sch 18 para 10(1).

3 For the meaning of 'notice' see PARA 83 note 10 ante.

4 As to the London Assembly see PARA 82 ante.

5 Greater London Authority Act 1999 Sch 18 para 10(2).

6 Ibid Sch 18 para 11(1).

7 As to the chairman of the Committee see PARAS 323-325 ante.

8 Greater London Authority Act 1999 Sch 18 para 11(2).

9 As to the Strategic Rail Authority see RAILWAYS, INLAND WATERWAYS AND CROSS-COUNTRY PIPELINES vol 39(1A) (Reissue) PARA 46 et seq.

10 Greater London Authority Act 1999 Sch 18 para 11(3) (amended by the Transport Act 2000 ss 227, 252, Sch 22 paras 21, 24, Sch 27 paras 57, 62(1), (5)). As to the Rail Passengers' Council see RAILWAYS, INLAND WATERWAYS AND CROSS-COUNTRY PIPELINES vol 39(1A) (Reissue) PARA 68 et seq.

11 Greater London Authority Act 1999 Sch 18 para 11(4), which is expressed to be subject to the provisions of Sch 18 (as amended).

12 Ibid Sch 18 para 12.

13 Ibid Sch 18 para 13(1).

14 Ibid Sch 18 para 13(2).

15 Ibid Sch 18 para 14.

## **UPDATE**

### **322-333 London Transport Users' Committee**

Provision is made for the London Transport Users' Committee to continue to have functions it previously had by virtue of being treated as a Rail Passengers' Committee: Greater London Authority 1999 ss 252A-252E (added by Railways Act 2005 s 21(3), Sch 6 paras 2-4).

### **328 Procedure**

TEXT AND NOTE 9--For 'Strategic Rail Authority' now read 'Secretary of State': Railways Act 2005 Sch 12 para 14(9).

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/4. TRANSPORT IN LONDON/(4) LONDON TRANSPORT USERS' COMMITTEE/329. Admission of public to meetings.

### **329. Admission of public to meetings.**

Meetings of the London Transport Users' Committee<sup>1</sup> are open to the public<sup>2</sup>. However, the public must be excluded during any item of business where:

- 503 (1) it is likely, were members of the public to be present during that item, that information furnished in confidence to the Committee by the Rail Regulator<sup>3</sup> or the Strategic Rail Authority<sup>4</sup> would be disclosed in breach of the obligation of confidence<sup>5</sup>;
- 504 (2) the Committee has resolved that, by reason of the confidential nature of the item or for other special reasons stated in the resolution, it is desirable in the public interest that the public be excluded<sup>6</sup>; or
- 505 (3) it is likely, were members of the public to be present during that item, that there would be disclosed to them any matter which relates to the affairs of an individual<sup>7</sup>, or any matter which relates specifically to the affairs of a particular body of persons, whether corporate or unincorporate<sup>8</sup>, where public disclosure of that matter would or might, in the opinion of the committee, seriously and prejudicially affect the interests of that individual or body<sup>9</sup>.

The Committee must give such notice<sup>10</sup> of any meeting of the Committee which is open to the public<sup>11</sup>, and of the business to be taken at that meeting (other than items during which the public is to be excluded)<sup>12</sup>, as it considers appropriate for the purpose of bringing the meeting to the attention of interested members of the public<sup>13</sup>.

1 As to the establishment of the London Transport Users' Committee see PARA 322 ante.

2 Greater London Authority Act 1999 s 247(7), Sch 18 para 15(1).

3 As to the Rail Regulator see RAILWAYS, INLAND WATERWAYS AND CROSS-COUNTRY PIPELINES vol 39(1A) (Reissue) PARA 50 et seq.

4 As to the Strategic Rail Authority see RAILWAYS, INLAND WATERWAYS AND CROSS-COUNTRY PIPELINES vol 39(1A) (Reissue) PARA 46 et seq.

5 Greater London Authority Act 1999 Sch 18 para 15(2)(a) (amended by the Transport Act 2000 s 252, Sch 27 paras 57, 62(1), (6)).

6 Greater London Authority Act 1999 Sch 18 para 15(2)(b).

7 Ibid Sch 18 para 15(2)(c)(i).

8 Ibid Sch 18 para 15(2)(c)(ii).

9 Ibid Sch 18 para 15(2)(c).

10 For the meaning of 'notice' see PARA 83 note 10 ante.

11 Greater London Authority Act 1999 Sch 18 para 15(3)(a).

12 Ibid Sch 18 para 15(3)(b).

13 Ibid Sch 18 para 15(3).



## **UPDATE**

### **322-333 London Transport Users' Committee**

Provision is made for the London Transport Users' Committee to continue to have functions it previously had by virtue of being treated as a Rail Passengers' Committee: Greater London Authority 1999 ss 252A-252E (added by Railways Act 2005 s 21(3), Sch 6 paras 2-4).

### **329 Admission of public to meetings**

TEXT AND NOTE 3--For 'Rail Regulator' read 'Office of Rail Regulation': Railways and Transport Safety Act 2003 Sch 2 para 19.

TEXT AND NOTE 4--For 'Strategic Rail Authority' now read 'Secretary of State': Railways Act 2005 Sch 12 para 14(9).

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/4. TRANSPORT IN LONDON/(4) LONDON TRANSPORT USERS' COMMITTEE/330. Duty to consider representations, etc.

### **330. Duty to consider representations, etc.**

The London Transport Users' Committee<sup>1</sup> must consider and, where it appears to the Committee to be desirable, make recommendations with respect to, any matter affecting the functions of the Greater London Authority<sup>2</sup> or Transport for London<sup>3</sup> which relate to transport<sup>4</sup>. This includes in particular any matter relating to:

- 506 (1) services or facilities<sup>5</sup> provided by Transport for London or any of its subsidiaries<sup>6</sup>;
- 507 (2) services or facilities provided in pursuance of an agreement entered into by Transport for London or in pursuance of a transport subsidiary's agreement<sup>7</sup>;
- 508 (3) services or facilities otherwise authorised by Transport for London to be provided<sup>8</sup>;
- 509 (4) a hackney carriage or a person licensed to be the driver of a hackney carriage<sup>9</sup>; or
- 510 (5) a private hire vehicle or a person who holds a private hire vehicle driver's licence<sup>10</sup> or a private hire vehicle operator's licence<sup>11</sup>.

The London Transport Users' Committee must consider, and where it appears to be desirable, make recommendations with respect to, any matter which:

- 511 (a) has been the subject of representations (other than representations appearing to the Committee to be frivolous) made to the Committee by or on behalf of users of any of the services or facilities mentioned in heads (i) to (v) below, or by or on behalf of users of hackney carriages<sup>12</sup> or private hire vehicles<sup>13</sup>;
- 512 (b) has been referred to the Committee by Transport for London or the Greater London Authority<sup>14</sup>; or
- 513 (c) otherwise appears to the Committee to be a matter to which consideration ought to be given<sup>15</sup>,

other than a matter relating to the transportation of freight<sup>16</sup>.

Where a representation is made to the Committee in respect of a matter relating to a highway for which Transport for London is the highway authority<sup>17</sup> and the traffic authority<sup>18</sup>, the Committee must in making any such recommendation<sup>19</sup> consider the interests of all those who use the highway for the purposes of passenger transport, including cyclists and pedestrians<sup>20</sup>. Where a representation is made to the Committee about a matter which relates to passenger transport by land or water in Greater London<sup>21</sup>, but which is not a matter the Committee must<sup>22</sup> consider<sup>23</sup>, the Committee must refer the matter to the person whom the Committee considers the most appropriate to consider the matter<sup>24</sup>. Where the Committee so refers a matter, it must inform the person who made the representation of the name of the body or person to whom the matter has been referred<sup>25</sup>.

1 As to the establishment of the London Transport Users' Committee see PARA 322 ante.

2 As to the Greater London Authority see PARA 79 et seq ante.

3 As to the establishment of Transport for London see PARA 270 ante.

- 4 Greater London Authority Act 1999 s 248(1)(a).
  - 5 As to the provision of services and facilities by Transport for London see PARAS 298-313 ante.
  - 6 Greater London Authority Act 1999 s 248(2)(a). As to subsidiaries of Transport for London see PARA 287 ante.
  - 7 Ibid s 248(2)(b). As to Transport for London's power to enter into agreements see PARA 287 ante. For the meaning of 'transport subsidiary's agreement' see PARA 288 note 2 ante.
  - 8 Ibid s 248(2)(c).
  - 9 Ibid s 248(2)(d). For these purposes, 'person licensed to be the driver of a hackney carriage' means a person licensed under the Metropolitan Public Carriage Act 1869 s 8 (as substituted) or the London Hackney Carriages Act 1843 s 8 (as amended): Greater London Authority Act 1999 s 248(8). As to the licensing of persons to be drivers of hackney carriages under the Metropolitan Public Carriage Act 1869 s 8 (as substituted) or the London Hackney Carriages Act 1843 s 8 (as amended) see ROAD TRAFFIC vol 40(3) (2007 Reissue) PARAS 1481, 1487.
- Where a representation is made to the Committee about a matter falling within the Greater London Authority Act 1999 s 248(2)(d) or s 248(2)(e) (see head (4) and head (5) in the text) and the matter relates to any contravention of, or failure to comply with, any rule of law, or any breach of condition of a licence which has been granted by Transport for London, the Committee must refer the matter to Transport for London and must notify the person who made the representation of the referral: s 248(6).
- 10 For these purposes, 'private hire vehicle driver's licence' means a licence granted under the Private Hire Vehicles (London) Act 1998 s 13 (as amended: not yet in force): Greater London Authority Act 1999 s 248(8). As to the licensing of drivers of private hire vehicles under the Private Hire Vehicles (London) Act 1998 s 13 (as amended: not yet in force) see ROAD TRAFFIC vol 40(3) (2007 Reissue) PARA 1512.
  - 11 Greater London Authority Act 1999 s 248(2)(e). See note 9 supra. For these purposes, 'private hire vehicle operator's licence' means a licence granted under the Private Hire Vehicles (London) Act 1998 s 3 (as amended): Greater London Authority Act 1999 s 248(8). As to the licensing of operators of private hire vehicles under the Private Hire Vehicles (London) Act 1998 s 3 (as amended) see ROAD TRAFFIC vol 40(3) (2007 Reissue) PARA 1502.
  - 12 For these purposes, 'hackney carriage' means a vehicle licensed under the Metropolitan Public Carriage Act 1869 s 6 (as substituted): Greater London Authority Act 1999 s 248(8). As to the licensing of hackney carriages under the Metropolitan Public Carriage Act 1869 s 6 see ROAD TRAFFIC vol 40(3) (2007 Reissue) PARA 1479.
  - 13 Greater London Authority Act 1999 s 248(3)(a). For these purposes, 'private hire vehicle' means a vehicle for which a private hire vehicle licence for London is in force under the Private Hire Vehicles (London) Act 1998 s 7 (as amended: not yet in force): Greater London Authority Act 1999 s 248(8). As to the licensing of private hire vehicles under the Private Hire Vehicles (London) Act 1998 s 7 (as amended: not yet in force) see ROAD TRAFFIC vol 40(3) (2007 Reissue) PARA 1506.
  - 14 Greater London Authority Act 1999 s 248(3)(b).
  - 15 Ibid s 248(3)(c).
  - 16 Ibid s 248(1)(b).
  - 17 As to highway authorities see HIGHWAYS, STREETS AND BRIDGES vol 21 (2004 Reissue) PARA 49 et seq.
  - 18 As to traffic authorities see ROAD TRAFFIC vol 40(2) (2007 Reissue) PARA 731 et seq.
  - 19 Ie under the Greater London Authority Act 1999 s 248(1): see the text and notes 1-4, 10-16 supra.
  - 20 Ibid s 248(4).
  - 21 Ibid s 248(5)(a). As to Greater London see PARA 29 ante.
  - 22 Ie by virtue of ibid s 248(1): see the text and notes 1-4, 10-16 supra.
  - 23 Ibid s 248(5)(b).
  - 24 Ibid s 248(5).

25 Ibid s 248(7).

## **UPDATE**

### **322-333 London Transport Users' Committee**

Provision is made for the London Transport Users' Committee to continue to have functions it previously had by virtue of being treated as a Rail Passengers' Committee: Greater London Authority 1999 ss 252A-252E (added by Railways Act 2005 s 21(3), Sch 6 paras 2-4).

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/4. TRANSPORT IN LONDON/(4) LONDON TRANSPORT USERS' COMMITTEE/331. Arrangements with transport providers.

### **331. Arrangements with transport providers.**

The London Transport Users' Committee<sup>1</sup> may enter into arrangements with any person providing public passenger transport services or facilities in Greater London<sup>2</sup> under which the Committee may consider any matter which relates to such transport services or facilities provided by that person<sup>3</sup>, but which is not a matter<sup>4</sup> which the Committee must otherwise consider<sup>5</sup>.

Such arrangements are to be on such terms as may be agreed by the parties but may in particular include provision for the person with whom the Committee enters into the arrangements to make such payments by way of reimbursement of costs incurred by the Committee under the arrangements as the arrangements may specify<sup>6</sup>. Such arrangements may be entered into by the Committee only with the consent of the London Assembly<sup>7</sup>.

1 As to the establishment of the London Transport Users' Committee see PARA 322 ante.

2 As to Greater London see PARA 29 ante.

3 Greater London Authority Act 1999 s 249(1)(a).

4 ie which is not a matter falling within ibid s 248(1): see PARA 330 ante.

5 Ibid s 249(1)(b).

6 Ibid s 249(2).

7 Ibid s 249(3). As to the London Assembly see PARA 82 ante.

## **UPDATE**

### **322-333 London Transport Users' Committee**

Provision is made for the London Transport Users' Committee to continue to have functions it previously had by virtue of being treated as a Rail Passengers' Committee: Greater London Authority 1999 ss 252A-252E (added by Railways Act 2005 s 21(3), Sch 6 paras 2-4).

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/4. TRANSPORT IN LONDON/(4) LONDON TRANSPORT USERS' COMMITTEE/332. Recommendations and reports.

### **332. Recommendations and reports.**

Copies of the minutes, conclusions and recommendations of the London Transport Users' Committee<sup>1</sup> with respect to any matter must be sent to the London Assembly<sup>2</sup>, the Mayor of London<sup>3</sup>, and Transport for London<sup>4</sup>. The Committee must make an annual report to the Assembly and the Strategic Rail Authority<sup>5</sup>. Where the Assembly, the Mayor or Transport for London reaches a decision with respect to matters dealt with in any such recommendation, the decision must be notified to the Committee<sup>6</sup>.

1 As to the establishment of the London Transport Users' Committee see PARA 322 ante.

2 Greater London Authority Act 1999 s 250(1)(a). As to the London Assembly see PARA 82 ante.

3 Ibid s 250(1)(b). As to the Mayor of London see PARA 81 ante.

4 Ibid s 250(1)(c). As to the establishment of Transport for London see PARA 270 ante.

5 Ibid s 250(2) (amended by the Transport Act 2000 s 252, Sch 27 paras 57, 61). As to the Strategic Rail Authority see RAILWAYS, INLAND WATERWAYS AND CROSS-COUNTRY PIPELINES vol 39(1A) (Reissue) PARA 46 et seq.

6 Greater London Authority Act 1999 s 250(3).

### **UPDATE**

#### **322-333 London Transport Users' Committee**

Provision is made for the London Transport Users' Committee to continue to have functions it previously had by virtue of being treated as a Rail Passengers' Committee: Greater London Authority 1999 ss 252A-252E (added by Railways Act 2005 s 21(3), Sch 6 paras 2-4).

### **332 Recommendations and reports**

TEXT AND NOTE 5--In Greater London Authority Act 1999 s 250(2) for 'Strategic Rail Authority' now read 'Secretary of State': Railways Act 2005 Sch 12 para 14(8).

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/4. TRANSPORT IN LONDON/(4) LONDON TRANSPORT USERS' COMMITTEE/333. Guidance and directions.

### **333. Guidance and directions.**

The London Assembly<sup>1</sup> may issue to the London Transport Users' Committee<sup>2</sup> guidance<sup>3</sup> as to the manner in which it is to exercise its functions<sup>4</sup>, or general directions<sup>5</sup> as to the manner in which it is to exercise its functions<sup>6</sup>.

The Committee must exercise its functions in accordance with such guidance or directions as may be issued by the Assembly<sup>7</sup>. Any such guidance or directions issued must be issued in writing and notified to such officer of the Committee as the Committee may from time to time nominate to the Assembly for the purpose<sup>8</sup>.

- 1 As to the London Assembly see PARA 82 ante.
- 2 As to the establishment of the London Transport Users' Committee see PARA 322 ante.
- 3 For the meaning of 'guidance' see PARA 96 note 2 ante.
- 4 Greater London Authority Act 1999 s 251(1)(a).
- 5 As to the giving of directions see PARA 13 ante.
- 6 Greater London Authority Act 1999 s 251(1)(b).
- 7 Ibid s 251(2).
- 8 Ibid s 251(3).

### **UPDATE**

#### **322-333 London Transport Users' Committee**

Provision is made for the London Transport Users' Committee to continue to have functions it previously had by virtue of being treated as a Rail Passengers' Committee: Greater London Authority 1999 ss 252A-252E (added by Railways Act 2005 s 21(3), Sch 6 paras 2-4).

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/4. TRANSPORT IN LONDON/(5) ROAD USER CHARGING AND THE WORKPLACE PARKING LEVY/(i) Introduction/334. Legislation.

## **(5) ROAD USER CHARGING AND THE WORKPLACE PARKING LEVY**

### **(i) Introduction**

#### **334. Legislation.**

The Greater London Authority Act 1999 provides for the imposition of road user charging<sup>1</sup> and a parking place levy in Greater London<sup>2</sup>. The relevant provisions of the Greater London Authority Act 1999 were subsequently amended by the Transport Act 2000<sup>3</sup>. The legislation confers powers on the Greater London Authority<sup>4</sup>, Transport for London<sup>5</sup>, the London borough councils<sup>6</sup> and the Common Council of the City of London<sup>7</sup>. Part III of the Transport Act 2000<sup>8</sup> contains separate codes for road user charging schemes and parking place licensing schemes in the remainder of England and Wales and these are dealt with elsewhere in this work<sup>9</sup>. The legislation applicable to London, however, enables a charging scheme<sup>10</sup> to be made jointly by one or more non-metropolitan local traffic authorities<sup>11</sup> and one or more London traffic authorities<sup>12</sup> ('a joint local-London charging scheme')<sup>13</sup> and a licensing scheme<sup>14</sup> to be made in the same way ('a joint local-London licensing scheme')<sup>15</sup>. A joint local-London charging scheme or a joint local-London licensing scheme may cover an area outside Greater London and an area within Greater London<sup>16</sup> but, in either case, a scheme may only be made if it appears desirable for the purpose of directly or indirectly facilitating the achievement of policies and proposals set out in the transport strategy prepared and published by the Mayor of London<sup>17</sup> under the Greater London Authority Act 1999<sup>18</sup>.

1 See the Greater London Authority Act 1999 s 295, Sch 23 (as amended); and PARAS 338-366 post.

2 See *ibid* s 296, Sch 24 (as amended); and PARAS 367-395 post. As to Greater London see PARA 29 ante.

3 See the Transport Act 2000 s 199, Sch 13.

4 As to the Greater London Authority see PARA 79 et seq ante. The functions of the Authority under the Greater London Authority Act 1999 Sch 23 (as amended) are exercisable by the Mayor of London: see PARA 335 post. As to the Mayor of London see PARA 81 ante. As to the exercise of functions generally see PARA 164 et seq ante.

5 As to Transport for London see PARAS 269-321 ante.

6 As to the London boroughs and their councils see PARAS 30, 35-39, 59 et seq ante.

7 See the Greater London Authority Act 1999 ss 295(1), 296(1). As to the Common Council of the City of London see PARA 51 et seq ante.

8 *Ie* the Transport Act 2000 Pt III (ss 163-200).

9 See ROAD TRAFFIC.

10 *Ie* a scheme for imposing charges in respect of the use or keeping of motor vehicles on roads: see the Transport Act 2000 s 163(1).

11 For the purposes of *ibid* Pt III, references to a non-metropolitan local traffic authority are to a local traffic authority for an area outside Greater London (see ss 163(4), 198(1)); and 'local traffic authority' has the same meaning as in the Road Traffic Regulation Act 1984 (see ROAD TRAFFIC vol 40(2) (2007 Reissue) PARA 731) (Transport Act 2000 s 198(1)).



12 For the purposes of *ibid* Pt III, 'London traffic authority' means Transport for London, a London borough council or the Common Council of the City of London: s 198(1).

13 See *ibid* ss 163(3)(c), 166.

14 Ie a scheme for imposing charges in respect of the provision of workplace parking places at premises in the area covered by the scheme to be paid on licences covering the provision of a maximum number of such parking places at the premises: *ibid* s 178(1).

15 See *ibid* ss 178(5)(c), 181.

16 See *ibid* ss 166(1), 181(1).

17 Ie the transport strategy prepared and published under the Greater London Authority Act 1999 s 142: see *PARAS* 262-268 *ante*. As to the Mayor of London see *PARA* 81 *ante*.

18 See the Transport Act 2000 ss 166(2)(b), 181(2)(b).

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/4. TRANSPORT IN LONDON/(5) ROAD USER CHARGING AND THE WORKPLACE PARKING LEVY/(i) Introduction/335. Greater London Authority functions exercisable by the Mayor.

**335. Greater London Authority functions exercisable by the Mayor.**

Any functions conferred or imposed on the Greater London Authority<sup>1</sup> for road user charging<sup>2</sup> or in relation to the workplace parking levy<sup>3</sup> are exercisable by the Mayor of London<sup>4</sup> acting on behalf of the Authority<sup>5</sup>.

1 As to the Greater London Authority see PARA 79 et seq ante.

2 Ie by or under the Greater London Authority Act 1999 s 295(2), Sch 23 (as amended): see PARAS 338-366 post.

3 Ie by or under ibid s 296(2), Sch 24 (as amended): see PARAS 367-395 post.

4 As to the Mayor of London see PARA 81 ante.

5 Greater London Authority Act 1999 Sch 23 para 2, Sch 24 para 2.

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/4. TRANSPORT IN LONDON/(5) ROAD USER CHARGING AND THE WORKPLACE PARKING LEVY/(i) Introduction/336. Conditions for making charging schemes and licensing schemes.

### **336. Conditions for making charging schemes and licensing schemes.**

A charging scheme is a scheme for imposing charges in respect of the keeping or use of motor vehicles<sup>1</sup> on roads<sup>2</sup> in an area designated in the scheme<sup>3</sup>. A licensing scheme is a scheme for the licensing of persons providing workplace parking places<sup>4</sup>. Charging schemes and licensing schemes may only be made if it appears desirable or expedient for the purpose of directly or indirectly facilitating the achievement or implementation of any policies or proposals set out in the Mayor of London's<sup>5</sup> transport strategy<sup>6</sup>.

1 'Motor vehicle' means a mechanically propelled vehicle intended or adapted for use on roads: Road Traffic Act 1988 s 185(1); definition applied by the Greater London Authority Act 1999 s 295(3), Sch 23 para 1(1). However, the Road Traffic Act 1988 s 189 (exception for certain pedestrian controlled vehicles and electrically assisted pedal cycles) (see ROAD TRAFFIC vol 40(1) (2007 Reissue) PARA 210) applies for the purposes of the Greater London Authority Act 1999 s 295, Sch 23 (as amended) as it applies for the purposes of the Road Traffic Acts: Greater London Authority Act 1999 s 295(3).

2 'Road' means any length of highway or of any other road to which the public has access, and includes bridges over which a road passes: Road Traffic Regulation Act 1984 s 142(1); definition applied by the Greater London Authority Act 1999 s 295(2), Sch 23 para 1(1).

3 Ibid Sch 23 para 1(1). An area to which a charging scheme applies is defined as a 'charging area': Sch 23 para 1(1). Schedule 23 (as amended) (see PARAS 338-366 post) applies in relation to Crown roads as it applies in relation to other roads: Sch 23 para 35(1). 'Crown road' means a road, other than a highway, to which the public has access by permission granted by the appropriate Crown authority or otherwise granted by or on behalf of the Crown: Road Traffic Regulation Act 1984 s 131 (definition amended by the New Roads and Street Works Act 1991 s 168(1), Sch 8 Pt II para 75); definition applied by the Greater London Authority Act 1999 Sch 23 para 35(2).

4 As to such licensing schemes see PARA 367-395 post.

5 As to the Mayor of London see PARA 81 ante.

6 Greater London Authority Act 1999 s 296(2), Sch 23 para 3, Sch 24 para 6. As to the Mayor's transport strategy see PARAS 262-268 ante.

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**337. Schemes to conform with Mayor of London's transport strategy.**

A charging scheme<sup>1</sup> or a licensing scheme<sup>2</sup> must be in conformity with the Mayor of London's<sup>3</sup> transport strategy<sup>4</sup>.

1 As to charging schemes see PARAS 338-366 post.

2 As to licensing schemes see PARAS 367-395 post.

3 As to the Mayor of London see PARA 81 ante.

4 Greater London Authority Act 1999 ss 295(2), 296(2), Sch 23 para 5, Sch 24 para 8. As to the Mayor's transport strategy see PARAS 262-268 ante.

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/4. TRANSPORT IN LONDON/(5) ROAD USER CHARGING AND THE WORKPLACE PARKING LEVY/(ii) Road User Charging/338. Road user charging.

## **(ii) Road User Charging**

### **338. Road user charging.**

Each of the following bodies, namely: (1) Transport for London<sup>1</sup>; (2) any London borough council<sup>2</sup>; or (3) the Common Council of the City of London<sup>3</sup>, may establish and operate schemes for imposing charges in respect of the keeping or use of motor vehicles<sup>4</sup> on roads in its area<sup>5</sup>. The power to make a charging scheme<sup>6</sup> includes power to vary or revoke such a scheme, and the provisions relating to the making of a charging scheme apply (with one exception)<sup>7</sup> in relation to the variation or revocation of a charging scheme as to the making of a charging scheme<sup>8</sup>.

A charging authority<sup>9</sup> may install and maintain, or authorise the installation and maintenance of, any equipment, or construct and maintain, or authorise the construction and maintenance of, buildings or other structures, used or to be used in connection with the operation or enforcement of the charging scheme<sup>10</sup>.

1 As to Transport for London see PARAS 269-321 ante.

2 As to the London boroughs and their councils see PARAS 30, 35-39, 59 et seq ante.

3 For the purposes of the Greater London Authority Act 1999 s 295(2), Sch 23 (as amended) (see the text and notes infra; and PARAS 339-366 post):

89 (1) the City of London is to be treated as if it were a London borough (Sch 23 para 1(4)(a));

90 (2) the Common Council of the City of London is to be treated as if it were the council for a London borough (Sch 23 para 1(4)(b)); and

91 (3) the Inner Temple and the Middle Temple are to be treated as forming part of the City (Sch 23 para 1(4)(c)).

As to the Common Council of the City of London see PARA 51 et seq ante.

4 For the meaning of 'motor vehicle' see PARA 336 note 1 ante.

5 Greater London Authority Act 1999 s 295(1).

6 For the meaning of 'charging scheme' see PARA 336 ante.

7 The provisions of the Greater London Authority Act 1999 s 295(2), Sch 23 para 4 (apart from Sch 23 para 4(3)(f), (6) (as added)): see PARA 339 post.

8 Ibid Sch 23 para 38 (amended by the Transport Act 2000 ss 199, 274, Sch 13 paras 1, 18, Sch 31 Pt III).

9 'Charging authority' means an authority which is the maker of a charging scheme: Greater London Authority Act 1999 Sch 23 para 1(1).

10 Ibid s 295(2), Sch 23 para 14 (amended by the Transport Act 2000 s 199, Sch 13 paras 1, 8).

## **UPDATE**

### **338 Road user charging**

NOTE 5--A Transport for London scheme may provide that any person who, without reasonable excuse, contravenes or fails to comply with a specified requirement of the scheme is to be liable on summary conviction to a fine for each offence not exceeding level 2 on the standard scale or not exceeding a lesser amount: Transport for London Act 2008 s 5. As to the standard scale see PARA 87 NOTE 6. A Transport for London scheme may authorise the examination, for any purpose relating to or connected with a Transport for London scheme, of a motor vehicle found in a charging area, or the fitting of an immobilisation device to, or the removal of, a motor vehicle found in such an area, at a time at which the vehicle is on a public off-street parking place as well as at a time at which the vehicle is on a road: s 6. Where it appears to Transport for London to be desirable or expedient it may suspend or partially suspend the operation of a Transport for London scheme for such period or periods as it thinks fit: s 7. Provision is made for dealing with failure to notify changes in eligibility for exemptions: s 8.

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/4. TRANSPORT IN LONDON/(5) ROAD USER CHARGING AND THE WORKPLACE PARKING LEVY/(ii) Road User Charging/339. Making a charging scheme.

### **339. Making a charging scheme.**

A charging scheme<sup>1</sup> must be contained in an order made by the authority making the scheme<sup>2</sup>, and it must be submitted to, and confirmed (with or without modification) by, the Greater London Authority<sup>3</sup>. An order containing a charging scheme must be in such form as the Authority may determine<sup>4</sup>. The Authority may:

- 514 (1) consult, or require an authority making a charging scheme to consult other persons<sup>5</sup>;
- 515 (2) require such an authority to publish its proposals for the scheme and consider objections to the proposals<sup>6</sup>;
- 516 (3) hold an inquiry, or cause an inquiry to be held, for the purposes of any order containing a charging scheme<sup>7</sup>;
- 517 (4) appoint the person or persons by whom any such inquiry is to be held<sup>8</sup>;
- 518 (5) make modifications to any such order, whether in consequence of any objections or otherwise, before the order takes effect<sup>9</sup>;
- 519 (6) require the authority by whom such an order is made to publish notice of the order and of its effect<sup>10</sup>; and
- 520 (7) require the authority by whom any such order is made to place and maintain, or cause to be placed and maintained, such traffic signs<sup>11</sup> in connection with that order as the Authority may determine<sup>12</sup>.

1 For the meaning of 'charging scheme' see PARA 336 ante.

2 Greater London Authority Act 1999 s 295(2), Sch 23 para 4(1)(a). As to the authorities which may make charging schemes see PARA 338 ante.

3 Ibid Sch 23 para 4(1)(b). As to the Greater London Authority see PARA 79 et seq ante. The functions of the Authority under Sch 23 (as amended) are exercisable by the Mayor of London: see PARA 335 ante. As to the Mayor of London see PARA 81 ante. As to the exercise of functions generally see PARA 164 et seq ante.

The approval of the Greater London Authority must be obtained before there is included in a borough scheme any provision of a description specified in a direction given by the Authority to the London borough councils: Sch 23 para 6. 'Borough scheme' means any charging scheme other than a TfL scheme: Sch 23 para 1(1). For the meaning of 'charging scheme' see PARA 336 ante. 'TfL scheme' means a charging scheme made by Transport for London: Sch 23 para 1(1). As to Transport for London see PARAS 269-321 ante. As to the London boroughs and their councils see PARAS 30, 35-39, 59 et seq ante. As to the treatment of the Common Council of the City of London as a London borough council see PARA 338 note 3 ante. As to the giving of directions see PARA 13 ante.

4 Ibid Sch 23 para 4(2).

5 Ibid Sch 23 para 4(3)(a).

6 Ibid Sch 23 para 4(3)(aa) (added by the Transport Act 2000 s 199, Sch 13 paras 1, 3(1), (2)).

7 Greater London Authority Act 1999 Sch 23 para 4(3)(b). The Local Government Act 1972 s 250(2), (3) (as amended) (witnesses at local inquiries) (see LOCAL GOVERNMENT vol 69 (2009) PARA 105) applies in relation to any inquiry held by virtue of the Greater London Authority Act 1999 Sch 23 para 4(3)(b): Sch 23 para 4(4) (Sch 23 para 4(4)-(6) added by the Transport Act 2000 Sch 13 paras 1, 3(1), (5)). Where an inquiry is held by virtue of the Greater London Authority Act 1999 Sch 23 para 4(3)(b) for the purposes of any order containing a charging scheme: (1) the costs of the inquiry are paid by the charging authority; and (2) the parties at the inquiry bear their own costs: Sch 23 para 4(5) (as so added). The charging authority may enter any land, and exercise any other powers that may be necessary, for placing and maintaining, or causing to be placed and maintained,

traffic signs in connection with the charging scheme: Sch 23 para 4(6) (as so added). For the meaning of 'charging authority' see PARA 338 note 9 ante.

8 Ibid Sch 23 para 4(3)(c).

9 Ibid Sch 23 para 4(3)(d).

10 Ibid Sch 23 para 4(3)(da) (added by the Transport Act 2000 Sch 13 paras 1, 3(1), (3)).

11 'Traffic sign' has the meaning given by the Road Traffic Regulation Act 1984 s 64 (as amended) (see ROAD TRAFFIC vol 40(2) (2007 Reissue) PARA 830) but also includes signposts and other signs and notices included in that term by s 71(2) of that Act (see ROAD TRAFFIC vol 40(2) (2007 Reissue) PARA 837): Greater London Authority Act 1999 Sch 23 para 1(1) (definition amended by the Transport Act 2000 Sch 13 paras 1, 2(1), (5)).

12 Greater London Authority Act 1999 Sch 23 para 4(3)(f).



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### **340. Joint charging schemes.**

The Greater London Authority<sup>1</sup> may authorise or require two or more London borough councils<sup>2</sup> acting jointly to make a charging scheme<sup>3</sup> applying to the whole or part of their combined areas<sup>4</sup>. This is referred to as a 'joint charging scheme'<sup>5</sup>.

1 As to the Greater London Authority see PARA 79 et seq ante. The functions of the Authority under the Greater London Authority Act 1999 s 295(2), Sch 23 (as amended) are exercisable by the Mayor of London: see PARA 335 ante. As to the Mayor of London see PARA 81 ante. As to the exercise of functions generally see PARA 164 et seq ante.

2 As to the London boroughs and their councils see PARAS 30, 35-39, 59 et seq ante.

3 For the meaning of 'charging scheme' see PARA 336 ante.

4 Greater London Authority Act 1999 Sch 23 para 7(1). In the application of Sch 23 (as amended) in relation to a joint charging scheme, any reference to the charging authority is a reference to all or any of the London borough councils concerned: Sch 23 para 7(2). For the meaning of 'charging authority' see PARA 338 note 9 ante.

5 Ibid Sch 23 para 7(1).

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### **341. The contents of a charging scheme.**

A charging scheme<sup>1</sup> must:

- 521 (1) designate the area<sup>2</sup> to which it applies<sup>3</sup>;
- 522 (2) specify the classes of motor vehicles<sup>4</sup> in respect of which a charge is imposed<sup>5</sup>;
- 523 (3) designate those roads<sup>6</sup> in the charging area in respect of which charges are imposed<sup>7</sup>; and
- 524 (4) specify the charges imposed<sup>8</sup>.

A charging scheme must state whether or not it is to remain in force indefinitely and, if it is not to remain in force indefinitely, it must state the period for which it is to remain in force<sup>9</sup>.

A charging scheme may require: (a) documents to be displayed while a motor vehicle is on a road in respect of which charges are imposed<sup>10</sup>; or (b) equipment to be carried in or fitted to a motor vehicle while it is on such a road<sup>11</sup>.

1 For the meaning of 'charging scheme' see PARA 336 ante.

2 This area is referred to in the Greater London Authority Act 1999 s 295(2), Sch 23 as the 'charging area': see PARA 336 note 3 ante.

3 Ibid Sch 23 para 8(a).

4 For the meaning of 'motor vehicle' see PARA 336 note 1 ante. Any reference in ibid Sch 23 (as amended) to a class of motor vehicles is a reference to a class defined or described by reference to any characteristics of the motor vehicles or to any other circumstances whatsoever: Sch 23 para 1(3).

5 Ibid Sch 23 para 8(b).

6 For the meaning of 'road' see PARA 336 note 2 ante. Not all the roads in the charging area will necessarily be designated as roads in respect of which charges are imposed.

7 Greater London Authority Act 1999 Sch 23 para 8(c).

8 Ibid Sch 23 para 8(d).

9 Ibid Sch 23 para 37.

10 Ibid Sch 23 para 11A(a) (Sch 23 para 11A added by the Transport Act 2000 s 199, Sch 13 paras 1, 5). As to the designation of roads in respect of which charges are imposed see PARAS 342-343 post.

11 Greater London Authority Act 1999 Sch 23 para 11A(b) (as added: see note 10 supra).

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### **342. The charging area and the roads in respect of which charges are imposed.**

The designation of: (1) the boundaries of the charging area<sup>1</sup>; and (2) the roads<sup>2</sup> in that area in respect of which charges are imposed, are such as the authority making the charging scheme<sup>3</sup> may determine, subject to any modifications made by the Greater London Authority<sup>4</sup>.

A TfL scheme<sup>5</sup> may apply to an area which consists of the whole or any part of Greater London<sup>6</sup>. A borough scheme<sup>7</sup> may apply to an area which consists of the whole or any part of the area of the authority (or, in the case of a joint charging scheme<sup>8</sup>, the combined areas of the authorities) making the scheme<sup>9</sup>.

A road may not be subject to charges imposed by more than one charging authority<sup>10</sup> at the same time<sup>11</sup>. In the application of this requirement in relation to a joint charging scheme, the authorities making the scheme are to be treated as if they together constituted a single charging authority<sup>12</sup>.

A TfL scheme may impose charges in respect of roads in the charging area, whether or not Transport for London<sup>13</sup> is the traffic authority<sup>14</sup> or the highway authority<sup>15</sup> for those roads<sup>16</sup>.

A charging scheme may not impose charges in respect of a trunk road<sup>17</sup> except with the consent of the Secretary of State<sup>18</sup>.

A borough scheme may impose charges in respect of GLA roads<sup>19</sup>.

1 For the meaning of 'charging area' see PARA 336 note 3 ante.

2 For the meaning of 'road' see PARA 336 note 2 ante. See also PARA 341 note 6 ante.

3 For the meaning of 'charging scheme' see PARA 336 ante.

4 Greater London Authority Act 1999 s 295(2), Sch 23 para 9(1). As to the Greater London Authority see PARA 79 et seq ante. The functions of the Authority under Sch 23 (as amended) are exercisable by the Mayor of London: see PARA 335 ante. As to the Mayor of London see PARA 81 ante. As to the exercise of functions generally see PARA 164 et seq ante.

5 For the meaning of 'TfL scheme' para 339 note 3 ante.

6 Greater London Authority Act 1999 Sch 23 para 9(2). As to Greater London see PARA 29 ante.

7 For the meaning of 'borough scheme' para 339 note 3 ante.

8 As to joint charging schemes see PARA 340 ante.

9 Greater London Authority Act 1999 Sch 23 para 9(3).

10 For the meaning of 'charging authority' see PARA 338 note 9 ante.

11 Greater London Authority Act 1999 Sch 23 para 9(4).

12 Ibid Sch 23 para 9(5).

13 As to Transport for London see PARAS 269-321 ante.

14 'Traffic authority' has the same meaning as in the Road Traffic Regulation Act 1984 ss 121A (as added and amended), 142(1) (definition as added) (see ROAD TRAFFIC vol 40(2) (2007 Reissue) PARAS 726, 731): Greater London Authority Act 1999 Sch 23 para 1(1).

15 'Highway authority' has the same meaning as in the Highways Act 1980 (see in particular ss 1-9 (as amended)) (see HIGHWAYS, STREETS AND BRIDGES): Greater London Authority Act 1999 Sch 23 para 1(1).

16 Ibid Sch 23 para 9(6).

17 'Trunk road' has the same meaning as in the Road Traffic Regulation Act 1984 s 142(1) (definition as added) (see ROAD TRAFFIC vol 40(2) (2007 Reissue) PARA 726): Greater London Authority Act 1999 Sch 23 para 1(1).

18 Ibid Sch 23 para 9(7). As to the Secretary of State see PARA 12 note 2 ante.

19 Ibid Sch 23 para 9(8). 'GLA road' includes a reference to a GLA side road: Sch 23 para 1(1); and see ROAD TRAFFIC vol 40(2) (2007 Reissue) PARA 726.

## **UPDATE**

### **342 The charging area and the roads in respect of which charges are imposed**

TEXT AND NOTES 10, 11--Greater London Authority Act 1999 Sch 23 para 9(4) amended: Local Transport Act 2008 s 113(6).

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### **343. Exclusions for motor vehicles not on roads.**

A charging scheme<sup>1</sup> may not authorise or require:

- 525 (1) the imposition of charges in respect of a motor vehicle<sup>2</sup> by reference to its presence in a charging area<sup>3</sup> at a time at which the vehicle is not on a road<sup>4</sup>;
- 526 (2) the examination<sup>5</sup> of a motor vehicle found in a charging area at a time at which the vehicle is not on a road<sup>6</sup>; or
- 527 (3) the fitting of an immobilisation device<sup>7</sup> to, or the removal of, a motor vehicle found in a charging area at a time at which the vehicle is not on a road<sup>8</sup>.

1 For the meaning of 'charging scheme' see PARA 336 ante.

2 For the meaning of 'motor vehicle' see PARA 336 note 1 ante.

3 For the meaning of 'charging area' see PARA 336 note 3 ante.

4 Greater London Authority Act 1999 s 295(2), Sch 23 para 31(a). For the meaning of 'road' see PARA 336 note 2 ante.

5 Ie for any purpose relating to or connected with ibid Sch 23 (as amended), regulations or a charging scheme: see Sch 23 para 31(b). For the meaning of 'regulations' see PARA 344 note 14 post.

6 Ibid Sch 23 para 31(b).

7 'Immobilisation device' means any device or appliance designed or adapted to be fixed to a vehicle for the purpose of preventing it from being driven or otherwise put in motion, being a device or appliance of a type approved by the Secretary of State for use for that purpose: Road Traffic Regulation Act 1984 s 104(9); definition applied by the Greater London Authority Act 1999 Sch 23 para 1(1). As to immobilisation devices see ROAD TRAFFIC vol 40(2) (2007 Reissue) PARA 876 et seq. As to the removal or immobilisation of motor vehicles see PARA 358 post.

8 Ibid Sch 23 para 31(c).

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### **344. The charges.**

A charging scheme<sup>1</sup> must specify or describe the events by reference to the happening of which a charge is imposed by the charging scheme in respect of a motor vehicle<sup>2</sup> being kept or used on a road<sup>3</sup> in a charging area<sup>4</sup>. Any charge imposed by a charging scheme in respect of the keeping of a motor vehicle on a road in a charging area also has effect in respect of the use of the motor vehicle in that charging area<sup>5</sup>.

A charging scheme may make provision in relation to the manner in which charges are to be made, collected, recorded or paid<sup>6</sup>. The charges that may be imposed by a charging scheme include different charges (which may be no charge) for<sup>7</sup>:

- 528 (1) different days<sup>8</sup>;
- 529 (2) different times of day<sup>9</sup>;
- 530 (3) different parts of a charging area<sup>10</sup>;
- 531 (4) different distances travelled<sup>11</sup>;
- 532 (5) different classes of motor vehicles<sup>12</sup>.

In setting the rates of charge, regard may be had to the purposes for which the charging authority<sup>13</sup> is to apply the net proceeds<sup>14</sup> of the scheme<sup>15</sup>.

1 For the meaning of 'charging scheme' see PARA 336 ante.

2 For the meaning of 'motor vehicle' see PARA 336 note 1 ante.

3 For the meaning of 'road' see PARA 336 note 2 ante.

4 Greater London Authority Act 1999 s 295(2), Sch 23 para 10(1). For the meaning of 'charging area' see PARA 336 note 3 ante.

5 Ibid Sch 23 para 10(2).

6 Ibid Sch 23 para 10(3).

7 Ibid Sch 23 para 10(4).

8 Ibid Sch 23 para 10(4)(a).

9 Ibid Sch 23 para 10(4)(b).

10 Ibid Sch 23 para 10(4)(c).

11 Ibid Sch 23 para 10(4)(d).

12 Ibid Sch 23 para 10(4)(e). As to the meaning of 'class of motor vehicle' see PARA 341 note 4 ante.

13 For the meaning of 'charging authority' see PARA 338 note 9 ante.

14 'Net proceeds', in relation to a charging scheme and a financial year, means the amount (if any) by which the amounts received under or in connection with the scheme which are attributable to the financial year, exceed the expenses incurred for or in connection with the scheme which are so attributable: Greater London Authority Act 1999 Sch 23 para 1(1) (definition amended by the Transport Act 2000 s 199, Sch 13 paras 1, 2(1), (2)). For the meaning of 'financial year' see PARA 131 note 21 ante. For the purposes of the Greater London Authority Act 1999 Sch 23 (as amended): (1) the amounts received under or in connection with a charging

scheme; and (2) the expenses incurred for or in connection with such a scheme, and the extent to which they are attributable to any financial year, are to be determined in accordance with regulations under this provision: Sch 23 para 1(2) (substituted by the Transport Act 2000 Sch 13 paras 1, 2(1), (6)). 'Regulations' means (except where otherwise provided) regulations made by the Secretary of State: Greater London Authority Act 1999 Sch 23 para 1(1) (definition amended by the Transport Act 2000 Sch 13 paras 1, 2(1), (4)). At the date at which this volume states the law no regulations had been made under the Greater London Authority Act 1999 Sch 23 para 1(2). As to the Secretary of State see PARA 12 note 2 ante.

15 Ibid Sch 23 para 10(5).

## **UPDATE**

### **344 The charges**

TEXT AND NOTES--Regulations may (1) make provision requiring a charging scheme to provide that, in specified circumstances (a) persons of a specified description may pay; and (b) where those persons so choose, the charging authorities must collect, the charges imposed by the scheme in a specified manner; and (2) make provision for or in connection with the arrangements to be made by the charging authority with any person for the purpose of enabling charges to be paid, and collected, as mentioned in head (1): Greater London Authority Act 1999 Sch 23 para 10A(1) (added by the Local Transport Act 2008 s 113(7)).

TEXT AND NOTES 7-12--Also, head (6) different charges for different methods or means of recording, administering, collecting or paying the charge: Greater London Authority Act 1999 Sch 23 para 10(4) (amended by the Local Transport Act 2008 s 112(2)).

NOTE 14--As to the determination of the net proceeds, see the Road User Charging and Workplace Parking Levy (Net Proceeds) (England) Regulations 2003, SI 2003/110.

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### **345. Exemptions and reduced rates.**

The Secretary of State<sup>1</sup> may by regulations<sup>2</sup> make provision for or in connection with: (1) exemptions from charge<sup>3</sup>; (2) the application of reduced rates of charge<sup>4</sup>; or (3) the imposition of limits on the charges payable<sup>5</sup>, in the case of any prescribed<sup>6</sup> class of motor vehicles<sup>7</sup> or any prescribed description of disabled or other persons<sup>8</sup>. Subject to any such regulations and subject also to the provisions relating to making a charging scheme<sup>9</sup> and the approval required<sup>10</sup>, a charging scheme may make provision for or in connection with: (a) exemptions from charge<sup>11</sup>; (b) the application of reduced rates of charge<sup>12</sup>; or (c) the imposition of limits on the charges payable<sup>13</sup>, in the case of any particular class of motor vehicles or description of persons<sup>14</sup>.

1 As to the Secretary of State see PARA 12 note 2 ante.

2 For the meaning of 'regulations' see PARA 344 note 14 ante.

3 Greater London Authority Act 1999 s 295(2), Sch 23 para 11(1)(a).

4 Ibid Sch 23 para 11(1)(b).

5 Ibid Sch 23 para 11(1)(c).

6 'Prescribed' means specified in, or determined in accordance with, regulations: ibid Sch 23 para 1(1). See note 8 infra.

7 For the meaning of 'motor vehicle' see PARA 336 note 1 ante. As to the meaning of 'class of motor vehicle' see PARA 341 note 4 ante.

8 Ibid Sch 23 para 11(1). At the date at which this volume states the law no such regulations had been made.

9 For the meaning of 'charging scheme' see PARA 336 ante.

10 Ie the Greater London Authority Act 1999 Sch 23 paras 4 (as amended), 6: see PARA 339 ante.

11 Greater London Authority Act 1999 Sch 23 para 11(2)(a).

12 Ibid Sch 23 para 11(2)(b).

13 Ibid Sch 23 para 11(2)(c).

14 Ibid Sch 23 para 11(2) (amended by the Transport Act 2000 s 199, Sch 13 paras 1, 4).



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### **346. Penalty charges.**

Regulations<sup>1</sup> may make provision for or in connection with the imposition and payment of penalty charges in respect of acts, omissions, events or circumstances relating to or connected with a charging scheme<sup>2</sup>. Such regulations may make provision for or in connection with setting the rates of penalty charges (which may include provision for discounts or surcharges)<sup>3</sup>. The Lord Chancellor may make regulations about the notification, adjudication and enforcement of penalty charges<sup>4</sup>.

1 For the meaning of 'regulations' para 344 note 14 ante.

2 Greater London Authority Act 1999 s 295(2), Sch 23 para 12(1) (amended by the Transport Act 2000 s 199, Sch 13 paras 1, 6(1), (2)). For the meaning of 'charging scheme' see PARA 336 ante.

3 Greater London Authority Act 1999 Sch 23 para 12(2). In exercise of this power the Secretary of State has made the Road User Charging (Charges and Penalty Charges) (London) Regulations 2001, SI 2001/2285. As to the imposition of penalty charges see reg 4; as to setting the rates of penalty charges see reg 5; and as to liability for charges and penalty charges see reg 6.

4 Greater London Authority Act 1999 Sch 23 para 12(3) (added by the Transport Act 2000 Sch 13 paras 1, 6(1), (3)). In exercise of this power the Lord Chancellor has made the Road User Charging (Enforcement and Adjudication) (London) Regulations 2001, SI 2001/2313.

### **UPDATE**

### **346 Penalty charges**

NOTE 3--SI 2001/2285 amended: SI 2003/109.

NOTE 4--SI 2001/2313 amended: SI 2003/108, SI 2008/1956, SI 2008/2683. See further Constitutional Reform Act 2005 s 85, Sch 14 Pt 3.

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### **347. Liability for charges.**

Charges imposed in respect of any motor vehicle<sup>1</sup> by a charging scheme<sup>2</sup> (including penalty charges<sup>3</sup> imposed in respect of any motor vehicle) must be paid<sup>4</sup> by the registered keeper<sup>5</sup> of the motor vehicle<sup>6</sup> or, in prescribed<sup>7</sup> circumstances, by such person as may be prescribed<sup>8</sup>.

1 For the meaning of 'motor vehicle' see PARA 336 note 1 ante.

2 For the meaning of 'charging scheme' see PARA 336 ante.

3 As to penalty charges see PARA 346 ante.

4 Greater London Authority Act 1999 s 295(2), Sch 23 para 13 (substituted by the Transport Act 2000 s 199, Sch 13 paras 1, 7).

5 'Registered keeper', in relation to a charge imposed in respect of a motor vehicle, means the person in whose name the vehicle was registered under the Vehicle Excise and Registration Act 1994 at the time of the act, omission, event or circumstances in respect of which the charge is imposed: Greater London Authority Act 1999 Sch 23 para 1(1) (definition added by the Transport Act 2000 Sch 13 paras 1, 2(1), (3)). As to the registration of vehicles see ROAD TRAFFIC vol 40(1) (2007 Reissue) PARA 518 et seq.

6 Greater London Authority Act 1999 Sch 23 para 13(a) (as substituted: see note 4 supra).

7 'Prescribed' means specified in, or determined in accordance with, regulations: *ibid* Sch 23 para 1(1). See note 8 infra.

8 *Ibid* Sch 23 para 13(b) (as substituted: see note 4 supra). In exercise of this power the Secretary of State has made the Road User Charging (Charges and Penalty Charges) (London) Regulations 2001, SI 2001/2285.

### **UPDATE**

### **347 Liability for charges**

NOTE 8--SI 2001/2285 amended: SI 2003/109.

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### **348. Accounts and funds.**

A charging authority<sup>1</sup> must keep an account relating to each of the authority's charging schemes<sup>2</sup>. Each of the following bodies, namely: (1) the Greater London Authority<sup>3</sup>; (2) Transport for London<sup>4</sup>; and (3) a London borough council<sup>5</sup>, must keep an account relating to the sums received by the body which represent net proceeds<sup>6</sup> of charging schemes for which the body is not the charging authority<sup>7</sup>.

Each of the bodies required to keep an account<sup>8</sup> must prepare a statement of that account for each financial year<sup>9</sup>. A statement of account required to be prepared for any financial year must be published:

- 533 (a) in the case of a statement of account prepared by Transport for London, in the annual report of Transport for London<sup>10</sup> for that year<sup>11</sup>; and
- 534 (b) in any other case, in the annual accounts for that year of the body which prepared the statement of account<sup>12</sup>.

Regulations<sup>13</sup> may make further provision relating to:

- 535 (i) accounts<sup>14</sup> (including provision requiring or allowing the keeping of consolidated accounts relating to more than one charging scheme)<sup>15</sup>; and
- 536 (ii) the preparation and publication of statements of such accounts<sup>16</sup>.

At the end of each financial year: (A) any deficit in an account<sup>17</sup> must be made good out of the body's general fund<sup>18</sup>; and (B) any surplus in any such account (after the application of any of the net proceeds) must be applied towards making good to the general fund any amount charged to that fund under head (A) above in respect of the account in question in the ten years immediately preceding the financial year in question<sup>19</sup>. So much of any surplus as then remains must be carried forward in the account in question to the next financial year<sup>20</sup>.

1 For the meaning of 'charging authority' see PARA 338 note 9 ante.

2 Greater London Authority Act 1999 s 295(2), Sch 23 para 15(1) (amended by the Transport Act 2000 s 199, Sch 13 paras 1, 9(1), (2)). For the meaning of 'charging scheme' see PARA 336 ante.

3 Greater London Authority Act 1999 Sch 23 para 15(2)(a). As to the Greater London Authority see PARA 79 et seq ante. The functions of the Authority under Sch 23 (as amended) are exercisable by the Mayor of London: see PARA 335 ante. As to the Mayor of London see PARA 81 ante. As to the exercise of functions generally see PARA 164 et seq ante.

4 Ibid Sch 23 para 15(2)(b). As to Transport for London see PARAS 269-321 ante.

5 Ibid Sch 23 para 15(2)(c). As to the London boroughs and their councils see PARAS 30, 35-39, 59 et seq ante.

6 For the meaning of 'net proceeds' see PARA 344 note 14 ante.

7 Greater London Authority Act 1999 Sch 23 para 15(2) (amended by the Transport Act 2000 Sch 13 paras 1, 9(1), (2)).

8 Ie under the Greater London Authority Act 1999 Sch 23 para 15(1) or (2).

9 Ibid Sch 23 para 15(3) (amended by the Transport Act 2000 Sch 13 paras 1, 9(1), (3)). For the meaning of 'financial year' see PARA 131 note 21 ante.

10 Ie the annual report prepared under the Greater London Authority Act 1999 s 161: see PARA 295 ante.

11 Ibid Sch 23 para 15(4)(a).

12 Ibid Sch 23 para 15(4)(b).

13 For the meaning of 'regulations' see PARA 344 note 14 ante.

14 Ie accounts required to be kept under the Greater London Authority Act 1999 Sch 23 para 15(1) or (2) (as amended): see the text and notes 1-7 supra.

15 Ibid Sch 23 para 15(4A)(a) (Sch 23 para 15(4A) added by the Transport Act 2000 Sch 13 paras 1, 9(1), (4)). At the date at which this volume states the law no such regulations had been made.

16 Greater London Authority Act 1999 Sch 23 para 15(4A)(b) (as added: see note 15 supra). At the date at which this volume states the law no such regulations had been made.

17 Ie an account required to be kept under ibid Sch 23 para 15(1) or (2) (as amended): see the text and notes 1-7 supra.

18 Ibid Sch 23 para 15(5)(a). In the application of Sch 23 para 15 (as amended) in relation to Transport for London, any reference to its general fund is to be taken as a reference to its gross income: Sch 23 para 15(8). As to Transport for London see PARAS 269-321 ante.

19 Ibid Sch 23 para 15(5)(b), (6) (Sch 23 para 15(5)(b) amended by the Transport Act 2000 Sch 13 paras 1, 9(1), (5)). See note 18 supra.

20 Greater London Authority Act 1999 Sch 23 para 15(7).

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### **349. Application of the net proceeds.**

In the case of any charging scheme<sup>1</sup> which comes into force during the period of ten years beginning with the inception of the Greater London Authority<sup>2</sup>, the net proceeds<sup>3</sup> of the scheme, during the scheme's initial period<sup>4</sup>, are available only for application for relevant transport purposes<sup>5</sup> by any one or more of<sup>6</sup> the Authority<sup>7</sup>, Transport for London<sup>8</sup>, or a London borough council<sup>9</sup>. Otherwise, the net proceeds of a charging scheme may be applied only as may be specified in, or determined in accordance with, regulations<sup>10</sup>. Such regulations may include provision conferring a discretion on any body or person<sup>11</sup>.

Before making any such regulations<sup>12</sup>, the Secretary of State must make an assessment of what he considers to be the likely amounts of net proceeds of charging schemes<sup>13</sup>, and the potential for spending such net proceeds on relevant transport purposes which provide value for money<sup>14</sup>. Before making any such regulations, the Secretary of State must also consult the Authority<sup>15</sup>.

The net proceeds of charging schemes may only be applied for purposes which provide value for money<sup>16</sup>. The Secretary of State may issue guidance<sup>17</sup> to the Authority, Transport for London and the London borough councils with respect to the appraisal of whether any application of net proceeds of a charging scheme for any purpose provides value for money<sup>18</sup>. In determining how to apply the net proceeds of charging schemes, the Authority, Transport for London and any London borough council must comply with any such guidance<sup>19</sup>. The Secretary of State may at any time vary the guidance<sup>20</sup>.

1 For the meaning of 'charging scheme' see PARA 336 ante.

2 'The inception of the Authority' means the commencement of the term of office of the Mayor of London and the London Assembly members returned at the first ordinary election: Greater London Authority Act 1999 s 295(2), Sch 23 para 16(7). As to the term of office see PARA 100 ante. For the meaning of 'Assembly member' see PARA 82 note 3 ante. For the meaning of 'ordinary election' see PARA 84 note 9 ante. As to the Greater London Authority see PARA 79 et seq ante; and as to the Mayor of London and the London Assembly see PARAS 81-82 ante. As to the term of office of the Mayor and the Assembly members see PARA 100 ante.

3 For the meaning of 'net proceeds' see PARA 344 note 14 ante.

4 'The initial period', in the case of any charging scheme, means: (1) the period of ten years beginning with the coming into force of the scheme; or (2) such longer period as the Secretary of State may allow in the case of any particular scheme: Greater London Authority Act 1999 Sch 23 para 16(7). As to the Secretary of State see PARA 12 note 2 ante.

In determining for the purposes of Sch 23 para 16 when the initial period there mentioned begins or expires in the case of any charging scheme, regulations may make provision as to circumstances in which: (a) the same charging scheme is to be regarded as continuing in force, notwithstanding the making of amendments or the revocation and replacement (with or without modifications) of a scheme; or (b) a different scheme is, or is not, to be regarded as coming into force: Sch 23 para 17(6). At the date at which this volume states the law no such regulations had been made.

5 'Relevant transport purpose' means any purpose which directly or indirectly facilitates the implementation of any policies or proposals set out in the Mayor's transport strategy: *ibid* Sch 23 para 1(1). As to the Mayor's transport strategy see PARAS 263-268 ante.

6 *Ibid* Sch 23 para 16(1). Schedule 23 para 16(1)-(5) is without prejudice to Sch 23 para 15(6) (see PARA 348 ante): Sch 23 para 16(6).

7 Ibid Sch 23 para 16(1)(a). The functions of the Authority under Sch 23 (as amended) are exercisable by the Mayor: see PARA 335 ante. As to the exercise of functions generally see PARA 164 et seq ante.

8 Ibid Sch 23 para 16(1)(b). As to Transport for London see PARAS 269-321 ante.

9 Ibid Sch 23 para 16(1)(c). As to the London boroughs and their councils see PARAS 30, 35-39, 59 et seq ante.

10 Ibid Sch 23 para 16(2). See note 6 supra. For the meaning of 'regulations' para 344 note 14 ante. The provision that may be made by regulations under Sch 23 para 16(2) includes provision for Sch 23 para 16(1) to continue to apply, but with the substitution for the number of years for the time being there mentioned of a number of years greater than ten: Sch 23 para 16(4). At the date at which this volume states the law no such regulations had been made.

11 Ibid Sch 23 para 16(3). See note 6 supra.

12 Ie under ibid Sch 23 para 16(2): see the text and note 10 supra.

13 Ibid Sch 23 para 17(1)(a).

14 Ibid Sch 23 para 17(1)(b).

15 Ibid Sch 23 para 17(2).

16 Ibid Sch 23 para 16(5). See note 6 supra.

17 For the meaning of 'guidance' see PARA 96 note 2 ante.

18 Greater London Authority Act 1999 Sch 23 para 17(3).

19 Ibid Sch 23 para 17(4).

20 Ibid Sch 23 para 17(5).

## UPDATE

### 349 Application of the net proceeds

TEXT AND NOTES 1-9--Greater London Authority Act 1999 Sch 23 para 16(1) amended: Local Transport Act 2008 ss 121, 131, Sch 6 para 10(2), Sch 7 Pt 5. Greater London Authority Act 1999 Sch 23 para 16(1A) added: Local Transport Act 2008 s 121, Sch 6 para 10(3).

NOTE 2, 4--Greater London Authority Act 1999 Sch 23 para 16(7) repealed: Local Transport Act 2008 ss 121, 131, Sch 6 para 10(6), Sch 7 Pt 5.

NOTE 4--Greater London Authority Act 1999 Sch 23 para 17(6) repealed: Local Transport Act 2000 ss 121, 131, Sch 6 para 11, Sch 7 Pt 5.

NOTE 6--Greater London Authority Act 1999 Sch 23 para 16(6) amended: Local Transport Act 2008 s 121, Sch 6 para 10(5).

TEXT AND NOTES 10, 11--Greater London Authority Act 1999 Sch 23 para 16(2)-(4) repealed: Local Transport Act 2008 ss 121, 131, Sch 6 para 10(4), Sch 7 Pt 5.

TEXT AND NOTES 12-15--Greater London Authority Act 1999 Sch 23 para 17(1), (2) repealed: Local Transport Act 2008 ss 121, 131, Sch 6 para 11, Sch 7 Pt 5.

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### **350. Apportionment of net proceeds of charging schemes.**

Subject to any provision made by regulations<sup>1</sup>, the Greater London Authority<sup>2</sup> may require a charging scheme<sup>3</sup> to include provision for such portion of the net proceeds<sup>4</sup> as the Authority may determine to be paid to: (1) the Authority<sup>5</sup>; (2) Transport for London<sup>6</sup>; or (3) such London borough councils<sup>7</sup> as may be specified or described by the Authority<sup>8</sup>, for application for relevant transport purposes<sup>9</sup>.

1 The regulations made under the Greater London Authority Act 1999 s 295, Sch 23 para 16(2): see PARA 349 ante. For the meaning of 'regulations' see PARA 344 note 14 ante. At the date at which this volume states the law no regulations had been made under Sch 23 para 16(2).

2 As to the Greater London Authority see PARA 79 et seq ante.

3 For the meaning of 'charging scheme' see PARA 336 ante. The functions of the Authority under the Greater London Authority Act 1999 Sch 23 (as amended) are exercisable by the Mayor of London: see PARA 335 ante. As to the Mayor of London see PARA 81 ante. As to the exercise of functions generally see PARA 164 et seq ante.

4 For the meaning of 'net proceeds' see PARA 344 note 14 ante. In the Greater London Authority Act 1999 Sch 23 (as amended), any reference to a charging authority's share of the net proceeds of a charging scheme is a reference to so much of the net proceeds of the scheme as remains after the making of any payments to other bodies or persons required by virtue of Sch 23 para 18(1) or regulations under Sch 23 para 16(2) (see PARA 349 ante): Sch 23 paras 1(1), 18(2).

5 Ibid Sch 23 para 18(1)(a).

6 Ibid Sch 23 para 18(1)(b). As to Transport for London see PARAS 269-321 ante.

7 As to the London boroughs and their councils see PARAS 30, 35-39, 59 et seq ante.

8 Greater London Authority Act 1999 Sch 23 para 18(1)(c).

9 Ibid Sch 23 para 18(1). For the meaning of 'relevant transport purpose' see PARA 349 note 5 ante. For the purposes of Sch 23 (as amended), the payment by the Authority of a sum received by the Authority by virtue of Sch 23 para 18(1) to any body corporate for the purpose of the application of that sum by that body for relevant transport purposes is to be taken to be the application of that sum by the Authority for relevant transport purposes: Sch 23 para 18(3).

## **UPDATE**

### **350 Apportionment of net proceeds of charging schemes**

TEXT AND NOTES--Greater London Authority Act 1999 Sch 23 para 18(1) amended: Local Transport Act 2008 ss 121, 131, Sch 6 para 12(2), Sch 7 Pt 5. In the case of a charging scheme which imposes charges in respect of a trunk road, the Secretary of State may require the scheme to include provision for the payment to the Secretary of State of such portion of the net proceeds as is (1) provided for by the scheme; or (2) otherwise determined with the consent of the Secretary of State: Greater London Authority Act 1999 Sch 23 para 18(1A) (Sch 23 para 18(1A), (1B) added by the Local Transport Act 2008 s 121, Sch 6 para 12(3)). Any portion of the net proceeds paid to the Secretary of State by virtue of the Greater London Authority Act 1999 Sch 23 para 18(1A) will be available only for application for the purpose of directly or indirectly facilitating the

achievement of any policies or proposals relating to transport: Greater London Authority Act 1999 Sch 23 para 18(1B).

NOTE 4--Greater London Authority Act 1999 Sch 23 para 18(2) amended: Local Transport Act 2008 ss 121, 131, Sch 6 para 12(4), Sch 7 Pt 5.



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### **351. Charging authority's ten year plan for its share of net proceeds of charging scheme.**

A charging scheme<sup>1</sup> must include a statement of the charging authority's<sup>2</sup> proposed general plan for applying the authority's share of the net proceeds<sup>3</sup> of the scheme during the opening ten year period<sup>4</sup>. An order containing a charging scheme is not to come into force unless and until the statement has been approved: (1) by the Secretary of State<sup>5</sup>; and (2) if the scheme is a borough scheme<sup>6</sup>, by the Greater London Authority<sup>7</sup>. In the case of a borough scheme, an application for approval under head (1) above may only be made by the Authority acting on behalf of the charging authority<sup>8</sup>, and after the giving by the Authority of the approval required by head (2) above<sup>9</sup>.

1 For the meaning of 'charging scheme' see PARA 336 ante.

2 For the meaning of 'charging authority' see PARA 338 note 9 ante.

3 For the meaning of 'net proceeds' see PARA 344 note 14 ante; and as to the meaning of 'share of the net proceeds' see PARA 350 note 4 ante.

4 Greater London Authority Act 1999 s 295(2), Sch 23 para 19(1). 'The opening ten year period', in relation to any charging scheme, means the period which begins with the date on which the scheme comes into force, and ends with the tenth financial year that commences on or after that date: Sch 23 para 19(2). For the meaning of 'financial year' see PARA 131 note 21 ante.

5 Ibid Sch 23 para 19(3)(a). As to the Secretary of State see PARA 12 note 2 ante.

6 For the meaning of 'borough scheme' para 339 note 3 ante.

7 Greater London Authority Act 1999 Sch 23 para 19(3)(b). As to the Greater London Authority see PARA 79 et seq ante. The functions of the Authority under Sch 23 (as amended) are exercisable by the Mayor of London: see PARA 335 ante. As to the Mayor of London see PARA 81 ante. As to the exercise of functions generally see PARA 164 et seq ante.

8 Ibid Sch 23 para 19(4)(a).

9 Ibid Sch 23 para 19(4)(b).

### **UPDATE**

### **351 Charging authority's ten year plan for its share of net proceeds of charging scheme**

TEXT AND NOTES 5-7--Greater London Authority Act 1999 Sch 23 para 19(3)(a) repealed: Local Transport Act 2008 ss 120(2), 131, Sch 7 Pt 5.

TEXT AND NOTES 8, 9--Greater London Authority Act 1999 Sch 23 para 19(4) repealed: Local Transport Act 2008 ss 120(2), 131, Sch 7 Pt 5.

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**352. Charging authority's four year programmes for its share of net proceeds of charging scheme.**

As long as a charging scheme<sup>1</sup> remains in force, the charging authority<sup>2</sup> must, during every fourth financial year<sup>3</sup> after the financial year in which the scheme comes into force, prepare a written statement of its proposed general programme for applying the authority's share of the net proceeds<sup>4</sup> of the scheme during the next four financial years<sup>5</sup>. Any such statement must be submitted for approval (1) to the Secretary of State<sup>6</sup>; and (2) in the case of a borough scheme<sup>7</sup>, the Greater London Authority<sup>8</sup>. Any statement required to be submitted to the Secretary of State must be so submitted not less than six months before the end of the financial year during which the statement is required to be prepared<sup>9</sup>. In the case of a borough scheme, any such submission to the Secretary of State may only be made by the Authority acting on behalf of the charging authority<sup>10</sup>, and after the giving by the Authority of the approval required under head (2) above<sup>11</sup>. Any statement prepared and approved in the case of a charging scheme prevails for all purposes over any conflicting provisions in the statement included in the scheme<sup>12</sup>.

Except with the consent of the Secretary of State in any particular case, none of the charging authority's share of the net proceeds of a charging scheme may be applied in any financial year beginning after the end of the opening four year period<sup>13</sup> unless and until a statement having effect in relation to a period in which that year falls has been prepared and approved<sup>14</sup>.

1 For the meaning of 'charging scheme' see PARA 336 ante.

2 For the meaning of 'charging authority' see PARA 338 note 9 ante.

3 For the meaning of 'financial year' see PARA 131 note 21 ante.

4 For the meaning of 'net proceeds' see PARA 344 note 14 ante; and as to the meaning of 'share of the net proceeds' see PARA 350 note 4 ante.

5 Greater London Authority Act 1999 s 295(2), Sch 23 para 20(1).

6 Ibid Sch 23 para 20(2)(a). As to the Secretary of State see PARA 12 note 2 ante.

7 For the meaning of 'borough scheme' see PARA 339 note 3 ante.

8 Greater London Authority Act 1999 Sch 23 para 20(2)(b). As to the Greater London Authority see PARA 79 et seq ante. The functions of the Authority under Sch 23 (as amended) are exercisable by the Mayor of London: see PARA 335 ante. As to the Mayor of London see PARA 81 ante. As to the exercise of functions generally see PARA 164 et seq ante.

9 Ibid Sch 23 para 20(3).

10 Ibid Sch 23 para 20(4)(a).

11 Ibid Sch 23 para 20(4)(b).

12 Ibid Sch 23 para 20(5). Such a statement is included in the scheme pursuant to Sch 23 para 19: see PARA 351 ante.

13 'The opening four year period', in relation to any charging scheme, means the period which: (1) begins with the date on which the scheme comes into force; and (2) ends with the fourth financial year that commences on or after that date: ibid Sch 23 para 23(3).

14 Ibid Sch 23 para 23(1).

## **UPDATE**

### **352 Charging authority's four year programmes for its share of net proceeds of charging scheme**

TEXT AND NOTES 6-8--Greater London Authority Act 1999 Sch 23 para 20(2)(a) repealed: Local Transport Act 2008 ss 120(3)(a), 131, Sch 7 Pt 5.

TEXT AND NOTES 9-11--Greater London Authority Act 1999 Sch 23 para 20(3), (4) repealed: Local Transport Act 2008 ss 120(3)(a), 131, Sch 7 Pt 5.

TEXT AND NOTE 12--Greater London Authority Act 1999 Sch 23 para 20(5) amended: Local Transport Act 2008 s 120(3)(b).

TEXT AND NOTES 13, 14--Greater London Authority Act 1999 Sch 23 para 23(1) amended: Local Transport Act 2008 s 120(6)(a).

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### **353. Greater London Authority's ten year plan for the redistributed portion.**

Where a charging scheme<sup>1</sup> includes provision<sup>2</sup> for a portion of the net proceeds<sup>3</sup> of the scheme (the 'redistributed portion') to be paid by the charging authority<sup>4</sup> to another body<sup>5</sup>, the Greater London Authority<sup>6</sup> must prepare and submit to the Secretary of State<sup>7</sup> a statement of the Authority's general plan for the application (whether by the Authority or any other body) of the redistributed portion during the opening ten year period<sup>8</sup>. An order containing a charging scheme does not come into force unless and until any statement required in the case of that scheme has been approved by the Secretary of State<sup>9</sup>.

1 For the meaning of 'charging scheme' see PARA 336 ante.

2 Ie by virtue of s 295(2), Sch 23 para 18(1): see PARA 350 ante.

3 For the meaning of 'net proceeds' see PARA 344 note 14 ante.

4 For the meaning of 'charging authority' see PARA 338 note 9 ante.

5 Greater London Authority Act 1999 Sch 23 para 21(1).

6 As to the Greater London Authority see PARA 79 et seq ante.

7 As to the Secretary of State see PARA 12 note 2 ante.

8 Greater London Authority Act 1999 Sch 23 para 21(2). 'The opening ten year period', in relation to any charging scheme, means the period which begins with the date on which the scheme comes into force and ends with the tenth financial year that commences on or after that date: Sch 23 para 21(3). For the meaning of 'financial year' see PARA 131 note 21 ante. The functions of the Authority under Sch 23 (as amended) are exercisable by the Mayor of London: see PARA 335 ante. As to the Mayor of London see PARA 81 ante. As to the exercise of functions generally see PARA 164 et seq ante.

9 Ibid Sch 23 para 21(4).

## **UPDATE**

### **353 Greater London Authority's ten year plan for the redistributed portion**

TEXT AND NOTES 1-8--Greater London Authority Act 1999 Sch 23 para 21(2) amended: Local Transport Act 2008 ss 120(4)(a), 131, Sch 7 Pt 5.

TEXT AND NOTE 9--Greater London Authority Act 1999 Sch 23 para 21(4) repealed: Local Transport Act 2008 ss 120(4)(b), 131, Sch 7 Pt 5.

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### **354. Greater London Authority's four year programmes for the redistributed portion.**

As long as a charging scheme<sup>1</sup> which includes provision for a portion of the net proceeds<sup>2</sup> of the scheme to be paid by the charging authority<sup>3</sup> to another person remains in force<sup>4</sup>, the Greater London Authority<sup>5</sup> must, during every fourth financial year<sup>6</sup> after the financial year in which the scheme comes into force, prepare a written statement of the Authority's proposed general programme for the application (whether by the Authority or any other body) of the redistributed portion of the net proceeds of the scheme during the next four financial years<sup>7</sup>. Any such statement must be submitted for approval to the Secretary of State<sup>8</sup> not less than six months before the end of the financial year during which the statement is required to be prepared<sup>9</sup>. A statement prepared and approved for any scheme prevails for all purposes over any conflicting provisions in the statement prepared and approved under the Authority's ten year plan<sup>10</sup> for that scheme<sup>11</sup>.

Except with the consent of the Secretary of State in any particular case, none of the redistributed portion of the net proceeds of a charging scheme may be applied in any financial year beginning after the end of the opening four year period<sup>12</sup> unless and until a statement having effect in relation to a period in which that year falls has been prepared and approved in relation to the scheme<sup>13</sup>.

1 For the meaning of 'charging scheme' see PARA 336 ante.

2 For the meaning of 'net proceeds' see PARA 344 note 14 ante.

3 For the meaning of 'charging authority' see PARA 338 note 9 ante.

4 I.e. a charging scheme to which the Greater London Authority Act 1999 s 295(2), Sch 23 para 21 applies: see PARA 353 ante.

5 As to the Greater London Authority see PARA 79 et seq ante.

6 For the meaning of 'financial year' see PARA 321 note 21 ante.

7 Greater London Authority Act 1999 Sch 23 para 22(1), (2). The functions of the Authority under Sch 23 (as amended) are exercisable by the Mayor of London: see PARA 335 ante. As to the Mayor of London see PARA 81 ante. As to the exercise of functions generally see PARA 164 et seq ante. As to the redistributed portion of the net proceeds see Sch 23 para 21(1); and PARA 353 ante.

8 As to the Secretary of State see PARA 12 note 2 ante.

9 Greater London Authority Act 1999 Sch 23 para 22(3).

10 I.e. under *ibid* Sch 23 para 21: see PARA 353 ante.

11 *Ibid* Sch 23 para 22(4).

12 'The opening four year period', in relation to any charging scheme, means the period which begins with the date on which the scheme comes into force and ends with the fourth financial year that commences on or after that date: *ibid* Sch 23 para 23(3).

13 *Ibid* Sch 23 para 23(2).

## **UPDATE**

**354 Greater London Authority's four year programmes for the redistributed portion**

TEXT AND NOTE 9--Greater London Authority Act 1999 Sch 23 para 22(3) repealed: Local Transport Act 2008 ss 120(5)(a), 131, Sch 7 Pt 5.

TEXT AND NOTES 10, 11--Greater London Authority Act 1999 Sch 23 para 22(4) amended: Local Transport Act 2008 ss 120(5)(b), 131, Sch 7 Pt 5.

TEXT AND NOTES 12, 13--Greater London Authority Act 1999 Sch 23 para 23(2) amended: Local Transport Act 2008 ss 120(6)(b), 131, Sch 7 Pt 5.

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### **355. Amendment, replacement and voluntary statements in relation to four year programmes.**

Where a statement in relation to a four year programme has been prepared and approved<sup>1</sup>, the authority which prepared the statement may amend the statement<sup>2</sup>, or replace it with another statement<sup>3</sup>.

Where a charging scheme<sup>4</sup> is in force the charging authority<sup>5</sup> or the Greater London Authority<sup>6</sup> may prepare a statement<sup>7</sup> at any time before the beginning of the first financial year<sup>8</sup> for which a statement is required to be prepared<sup>9</sup> in respect of the scheme<sup>10</sup>.

The power conferred to make a statement or a replacement statement<sup>11</sup> is exercisable:

- 537 (1) in the case of a statement<sup>12</sup> in respect of a borough scheme<sup>13</sup>, during the period of six months beginning with the day on which a change of control of the London borough council concerned occurs<sup>14</sup>; or
- 538 (2) in any other case, during the period of six months beginning with the term of office of any person returned as the Mayor of London at an ordinary election<sup>15</sup> or at an election for filling a vacancy in the office of Mayor<sup>16</sup>.

Where in exercise of these powers an authority proposes to amend or replace a statement so prepared and approved<sup>17</sup>, or to prepare a voluntary statement<sup>18</sup>, the amendment, replacement statement or voluntary statement must be submitted for approval to the Secretary of State<sup>19</sup>, and if the statement concerned or affected is one prepared in respect of a borough scheme by the charging authority, to the Authority<sup>20</sup>. Where a statement so prepared and approved<sup>21</sup> is amended, the statement continues to be regarded<sup>22</sup> as a statement so prepared and approved, notwithstanding the amendment<sup>23</sup>.

A replacement statement or a voluntary statement must relate to the four financial years beginning with the financial year in which it takes effect (disregarding so much of that year as has expired before the statement takes effect)<sup>24</sup>. Where a voluntary statement or replacement statement prepared by an authority takes effect, the time at which any subsequent statement is required to be prepared by that authority<sup>25</sup> in respect of the charging scheme in question is determined as if the financial year preceding that in which the replacement statement or voluntary statement takes effect had been a fourth financial year<sup>26</sup>.

1    Ie under the Greater London Authority Act 1999 s 295(2), Sch 23 para 20 (see PARA 352 ante) or Sch 23 para 22 (see PARA 354 ante).

2    Ibid Sch 23 para 24(1)(a).

3    Ibid Sch 23 para 24(1)(b).

4    For the meaning of 'charging scheme' see PARA 336 ante.

5    For the meaning of 'charging authority' see PARA 338 note 9 ante.

6    As to the Greater London Authority see PARA 79 et seq ante. The functions of the Authority under the Greater London Authority Act 1999 Sch 23 (as amended) are exercisable by the Mayor of London: see PARA 335

ante. As to the Mayor of London see PARA 81 ante. As to the exercise of functions generally see PARA 164 et seq ante.

7 Where a charging scheme is in force: (1) the charging authority may prepare a statement such as is described in *ibid* Sch 23 para 20(1) (see PARA 352 ante); and (2) if the charging scheme is one to which Sch 23 para 21 applies (see PARA 353 ante), the Authority may prepare a statement such as is described in Sch 23 para 22(2) (see PARA 354 ante): Sch 23 para 24(2).

8 For the meaning of 'financial year' see PARA 131 note 21 ante.

9 *Ie* under the Greater London Authority Act 1999 Sch 23 para 20 (see PARA 352 ante) or, as the case may be, Sch 23 para 22 (see PARA 354 ante).

10 *Ibid* Sch 23 para 24(2).

11 *Ie* the power conferred by *ibid* Sch 23 para 24(1)(b) or (2).

12 *Ie* under *ibid* Sch 23 para 20: see PARA 352 ante.

13 For the meaning of 'borough scheme' para 339 note 3 ante.

14 Greater London Authority Act 1999 Sch 23 para 24(4)(a). As to the London boroughs and their councils see PARAS 30, 35-39, 59 et seq ante. As to the treatment of the Common Council of the City of London as a London borough council see PARA 338 note 3 ante.

15 For the meaning of 'ordinary election' see PARA 84 note 9 ante.

16 Greater London Authority Act 1999 Sch 23 para 24(4)(b). Such an election is held under s 16: see PARA 127 ante.

17 *Ie* under *ibid* Sch 23 para 20 (see PARA 352 ante) or Sch 23 para 22 (see PARA 354 ante).

18 *Ibid* Sch 23 para 24(5). For the purposes of Sch 23 para 24:

92 (1) a 'voluntary statement' is a statement prepared under Sch 23 para 24(2)(a) or (b) (see note 7 *supra*) (Sch 23 para 24(3)(a));

93 (2) a statement prepared under Sch 23 para 24(2)(a) is to be treated as a statement prepared under Sch 23 para 20 (see PARA 352 ante) and, if approved in accordance with the provisions of Sch 23 para 24, as approved under Sch 23 para 20 (Sch 23 para 24(3)(b)); and

94 (3) a statement prepared under Sch 23 para 24(2)(b) is to be treated as a statement prepared under Sch 23 para 22 (see PARA 354 ante) and, if approved in accordance with the provisions of Sch 23 para 24, as approved under Sch 23 para 22 (Sch 23 para 24(3)(c)).

References to statements under Sch 23 para 20 or Sch 23 para 22 are to be construed accordingly: Sch 23 para 24(3).

19 *Ibid* Sch 23 para 24(6)(a). As to the Secretary of State see PARA 12 note 2 ante.

20 *Ibid* Sch 23 para 24(6)(b). Where Sch 23 para 24(6)(b) applies, any submission to the Secretary of State under Sch 23 para 24(6)(a) may only be made by the Authority acting on behalf of the charging authority concerned, and after the giving by the Authority of the approval required by Sch 23 para 24(6)(b): Sch 23 para 24(7).

21 *Ie* under *ibid* Sch 23 para 20 (see PARA 352 ante) or Sch 23 para 22 (see PARA 354 ante).

22 *Ie* the purposes of *ibid* Sch 23 (as amended) (see the text and notes *supra*; and PARAS 335-354 ante, 356-366 post).

23 *Ibid* Sch 23 para 24(8).

24 *Ibid* Sch 23 para 24(9). A replacement statement or voluntary statement prepared and approved under Sch 23 para 24 is to be taken for the purposes of Sch 23 (as amended) to be a statement prepared and approved under Sch 23 para 20 (see PARA 352 ante), if it was prepared in respect of a charging scheme by the charging authority, or under Sch 23 para 22 (see PARA 354 ante), if it was prepared by the Authority: Sch 23 para 24(10).

25 *Ie* by virtue of *ibid* Sch 23 para 20 (see PARA 352 ante) or Sch 23 para 22 (see PARA 354 ante).



26 Ibid Sch 23 para 24(11). The fourth financial year is that mentioned in Sch 23 paras 20(1) (see PARA 352 ante), 22(1) (see PARA 354 ante).

## **UPDATE**

### **355 Amendment, replacement and voluntary statements in relation to four year programmes**

TEXT AND NOTES 1-3--Greater London Authority Act 1999 Sch 23 para 24(1) amended: Local Transport Act 2008 s 120(7)(a).

TEXT AND NOTES 17-20--Greater London Authority Act 1999 Sch 23 para 24(5) amended: Local Transport Act 2008 s 120(7)(c). Greater London Authority Act 1999 Sch 23 para 24(6)(a) repealed: Local Transport Act 2008 ss 120(7)(d), 131, Sch 7 Pt 5.

NOTE 18--Head (3). Greater London Authority Act 1999 Sch 23 para 24(3)(c) amended: Local Transport Act 2008 ss 120(7)(b), 131, Sch 7 Pt 5.

NOTE 20--Greater London Authority Act 1999 Sch 23 para 24(7) repealed: Local Transport Act 2008 ss 120(7)(d), 131, Sch 7 Pt 5.

TEXT AND NOTES 21-23--Greater London Authority Act 1999 Sch 23 para 24(8) amended: Local Transport Act 2008 s 120(7)(e).

NOTE 24--Greater London Authority Act 1999 Sch 23 para 24(10) amended: Local Transport Act 2008 ss 120(7)(f), 131, Sch 7 Pt 5.

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### 356. Offences.

A person who, with intent to avoid payment of a charge imposed by a charging scheme<sup>1</sup> or with intent to avoid being identified as having failed to pay such a charge: (1) interferes with any equipment used for or in connection with charging under a charging scheme<sup>2</sup>; or (2) causes or permits the registration plate of a motor vehicle<sup>3</sup> to be obscured<sup>4</sup> is guilty of an offence<sup>5</sup>.

A person who makes or uses any false document with intent to avoid payment of, or being identified as having failed to pay, a charge imposed by a charging scheme or a penalty charge<sup>6</sup> is guilty of an offence<sup>7</sup>.

A person is guilty of an offence if he removes a penalty charge notice<sup>8</sup> which has been fixed to a motor vehicle<sup>9</sup> unless<sup>10</sup>:

- 539 (a) he is the registered keeper<sup>11</sup> of the vehicle or a person using the vehicle with his authority<sup>12</sup>; or
- 540 (b) he does so under the authority of the registered keeper or such a person or of the charging authority<sup>13</sup>.

1 For the meaning of 'charging scheme' see PARA 336 ante.

2 Greater London Authority Act 1999 s 295(2), Sch 23 para 25(1)(a).

3 For the meaning of 'motor vehicle' see PARA 336 note 1 ante.

4 Greater London Authority Act 1999 Sch 23 para 25(1)(b).

5 Ibid Sch 23 para 25(1) (amended by the Transport Act 2000 ss 199, 274, Sch 13 paras 1, 10(1), (2), Sch 31 Pt III). A person guilty of such an offence is liable on summary conviction to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding six months or to both: Greater London Authority Act 1999 Sch 23 para 25(2). As to the standard scale see PARA 87 note 6 ante.

6 As to penalty charges see PARA 346 ante.

7 Greater London Authority Act 1999 Sch 23 para 25(1A) (added by the Transport Act 2000 Sch 13 paras 1, 10(1), (3)). A person guilty of such an offence is liable on summary conviction to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding six months or to both: Greater London Authority Act 1999 Sch 23 para 25(2) (amended by the Transport Act 2000 Sch 13 paras 1, 10(1), (4)).

8 'Penalty charge notice' means notice of a penalty charge: Greater London Authority Act 1999 Sch 23 para 1(1).

9 Is fixed to a motor vehicle in accordance with regulations under ibid Sch 23 para 12: see PARA 346 ante. For the meaning of 'regulations' see PARA 344 note 14 ante.

10 Ibid Sch 23 para 25(3) (added by the Transport Act 2000 Sch 13 paras 1, 10(1), (5)). A person guilty of such an offence is liable on summary conviction to a fine not exceeding level 2 on the standard scale: Greater London Authority Act 1999 Sch 23 para 25(4) (added by the Transport Act 2000 Sch 13 paras 1, 10(1), (5)).

11 For the meaning of 'registered keeper' see PARA 347 note 5 ante.

12 Greater London Authority Act 1999 Sch 23 para 25(3)(a) (as added: see note 10 supra).

13 Ibid Sch 23 para 25(3)(b) (as added: see note 10 supra). For the meaning of 'charging authority' see PARA 338 note 9 ante.

## **UPDATE**

### **356 Offences**

TEXT AND NOTES 1-5--Greater London Authority Act 1999 Sch 23 para 25(1)(a) amended:  
Local Transport Act 2008 s 115(4).

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### **357. Examination of motor vehicles.**

Regulations<sup>1</sup> may make provision conferring powers on prescribed<sup>2</sup> persons for or in connection with:

- 541 (1) examining a motor vehicle<sup>3</sup> for the purpose of ascertaining whether any document required by a charging scheme<sup>4</sup> to be displayed while a motor vehicle is on a road<sup>5</sup> in a charging area<sup>6</sup> is so displayed<sup>7</sup>; or
- 542 (2) examining a motor vehicle for the purpose of ascertaining whether any equipment required by a charging scheme to be carried in or fitted to a motor vehicle while the vehicle is on a road in a charging area is so carried or fitted, is in proper working order, or has been interfered with with intent to avoid payment of, or being identified as having failed to pay, a charge, or whether any conditions relating to the use of any such equipment are satisfied<sup>8</sup>.

Regulations may make provision conferring power on any person authorised in writing by the charging authority<sup>9</sup> to enter a motor vehicle where he has reasonable grounds for suspecting, in relation to a motor vehicle which is on a road<sup>10</sup>, that:

- 543 (a) any equipment required to be carried in or fitted to the motor vehicle while it is on a road in respect of which charges are imposed<sup>11</sup> has been interfered with with intent to avoid payment of, or being identified as having failed to pay, a charge imposed by the charging scheme<sup>12</sup>; or
- 544 (b) there is in the motor vehicle a false document which has been made or used with intent to avoid payment of, or being identified as having failed to pay, such a charge<sup>13</sup>.

A person who intentionally obstructs a person exercising any such power of entry<sup>14</sup> is guilty of an offence<sup>15</sup>.

Regulations may make provision conferring power on any person authorised in writing by the charging authority to seize anything (if necessary by detaching it from a motor vehicle) and detain it as evidence of the commission of an offence<sup>16</sup>.

1 For the meaning of 'regulations' para 344 note 14 ante.

2 'Prescribed' means specified in, or determined in accordance with, regulations: Greater London Authority Act 1999 s 295(2), Sch 23 para 1(1).

3 For the meaning of 'motor vehicle' see PARA 336 note 1 ante.

4 For the meaning of 'charging scheme' see PARA 336 ante.

5 For the meaning of 'road' see PARA 336 note 2 ante.

6 For the meaning of 'charging area' see PARA 336 note 3 ante.

7 Greater London Authority Act 1999 Sch 23 para 26(1)(a). As to the examination of vehicles see the Road User Charging (Charges and Penalty Charges) (London) Regulations 2001, SI 2001/2285, reg 7.

8 Greater London Authority Act 1999 Sch 23 para 26(1)(b) (amended by the Transport Act 2000 s 199, Sch 13 paras 1, 11(1), (2)). As to the regulations made under this provision see note 7 supra.

9 For the meaning of 'charging authority' see PARA 338 note 9 ante.

10 Greater London Authority Act 1999 Sch 23 para 26(2) (substituted by the Transport Act 2000 Sch 13 paras 1, 11(1), (3)).

11 As to the imposition of charges by a charging scheme see PARAS 341-344 ante.

12 Greater London Authority Act 1999 Sch 23 para 26(2)(a) (as substituted: see note 10 supra). As to the power to enter vehicles for this purpose see the Road User Charging (Charges and Penalty Charges) (London) Regulations 2001, SI 2001/2285, reg 8.

13 Greater London Authority Act 1999 Sch 23 para 26(2)(b) (as substituted: see note 10 supra). As to regulations made under this provision see note 12 supra.

14 *le* under *ibid* Sch 23 para 26(2) (as substituted): see the text to notes 9-13 supra.

15 *Ibid* Sch 23 para 26(3) (added by the Transport Act 2000 Sch 13 paras 1, 11(1), (4)). A person guilty of such an offence is liable on summary conviction to a fine not exceeding level 5 on the standard scale or imprisonment for a term not exceeding six months or to both: Greater London Authority Act 1999 Sch 23 para 26(4) (added by the Transport Act 2000 Sch 13 paras 1, 11(1), (4)). As to the standard scale see PARA 87 note 6 ante.

16 Greater London Authority Act 1999 Sch 23 para 26(5) (added by the Transport Act 2000 Sch 13 paras 1, 11(1), (4)). As to the power of seizure see the Road User Charging (Charges and Penalty Charges) (London) Regulations 2001, SI 2001/2285, reg 9. The offence mentioned in the text is one committed under the Greater London Authority Act 1999 Sch 23 para 25 (as amended): see PARA 356 ante.

## UPDATE

### 357 Examination of motor vehicles

TEXT AND NOTES 1-8--Greater London Authority Act 1999 Sch 23 para 26(1)(b) amended, Sch 23 para 26(2A) added: Local Transport Act 2008 s 115(5).

TEXT AND NOTES 9-13--Greater London Authority Act 1999 Sch 23 para 26(2) amended, Sch 23 para 26(2A) added: Local Transport Act 2008 s 115(5).

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### **358. Removal or immobilisation of motor vehicles.**

Regulations<sup>1</sup> may make provision for or in connection with:

- 545 (1) the fitting of immobilisation devices<sup>2</sup> to motor vehicles<sup>3</sup>;
- 546 (2) the fixing of immobilisation notices to motor vehicles to which an immobilisation device has been fitted<sup>4</sup>;
- 547 (3) the removal and storage of motor vehicles<sup>5</sup>;
- 548 (4) the release of motor vehicles from immobilisation devices or from storage<sup>6</sup>;
- 549 (5) requiring the satisfaction of conditions before the release of a motor vehicle<sup>7</sup>;
- and
- 550 (6) the sale or destruction of motor vehicles not released<sup>8</sup>.

A person who removes or interferes with an immobilisation notice in contravention of such regulations is guilty of an offence<sup>9</sup>.

A person who removes or attempts to remove an immobilisation device fixed to a motor vehicle in accordance with such regulations is guilty of an offence<sup>10</sup>. A person who intentionally obstructs a person exercising any power conferred on him by such regulations is also guilty of an offence<sup>11</sup>.

1 For the meaning of 'regulations' para 344 note 14 ante.

2 For the meaning of 'immobilisation device' see PARA 343 note 7 ante.

3 Greater London Authority Act 1999 s 295(2), Sch 23 para 27(1)(a). For the meaning of 'motor vehicle' see PARA 336 note 1 ante. As to the power to immobilise vehicles see the Road User Charging (Charges and Penalty Charges) (London) Regulations 2001, SI 2001/2285, reg 10.

4 Greater London Authority Act 1999 Sch 23 para 27(1)(aa) (added by the Transport Act 2000 s 199, Sch 13 paras 1, 12(1), (2)). As to regulations made under this provision see note 3 supra.

5 Greater London Authority Act 1999 Sch 23 para 27(1)(b). As to the power to remove vehicles see the Road User Charging (Charges and Penalty Charges) (London) Regulations 2001, SI 2001/2285, reg 12.

6 Greater London Authority Act 1999 Sch 23 para 27(1)(c). As to the release of immobilised vehicles see the Road User Charging (Charges and Penalty Charges) (London) Regulations 2001, SI 2001/2285, reg 11.

7 Greater London Authority Act 1999 Sch 23 para 27(1)(d). As to regulations made under this provision see note 6 supra.

8 Ibid Sch 23 para 27(1)(e) (added by the Transport Act 2000 Sch 13 paras 1, 12(1), (3)). As to the disposal of removed vehicles see the Road User Charging (Charges and Penalty Charges) (London) Regulations 2001, SI 2001/2285, reg 13.

9 Greater London Authority Act 1999 Sch 23 para 27(2) (added by the Transport Act 2000 Sch 13 paras 1, 12(1), (3)). A person guilty of such an offence is liable on summary conviction to a fine not exceeding level 2 on the standard scale: Greater London Authority Act 1999 Sch 23 para 27(5) (added by the Transport Act 2000 Sch 13 paras 1, 12(1), (3)). As to the standard scale see PARA 87 note 6 ante.

10 Greater London Authority Act 1999 Sch 23 para 27(3) (added by the Transport Act 2000 Sch 13 paras 1, 12(1), (3)). A person guilty of such an offence is liable on summary conviction to a fine not exceeding level 2 on the standard scale: Greater London Authority Act 1999 Sch 23 para 27(6) (added by the Transport Act 2000 Sch 13 paras 1, 12(1), (3)).

11 Greater London Authority Act 1999 Sch 23 para 27(4) (added by the Transport Act 2000 Sch 13 paras 1, 12(1), (3)). A person guilty of such an offence is liable on summary conviction to a fine not exceeding level 2 on the standard scale: Greater London Authority Act 1999 Sch 23 para 27(6) (added by the Transport Act 2000 Sch 13 paras 1, 12(1), (3)).

## **UPDATE**

### **358 Removal or immobilisation of motor vehicles**

NOTE 6--SI 2001/2285 reg 11 amended: SI 2003/109.

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### **359. Approval of equipment.**

No equipment of a description specified in a direction given by the Greater London Authority<sup>1</sup> to Transport for London<sup>2</sup> and every London borough council<sup>3</sup> may be used in connection with a charging scheme<sup>4</sup> unless the equipment is of a type approved by the Authority<sup>5</sup>. The Secretary of State<sup>6</sup> may give notice<sup>7</sup> to the Authority if he considers that:

- 551 (1) equipment of any particular description used in connection with a charging scheme ('the non-standard equipment') is incompatible with a national standard<sup>8</sup> for equipment of that or any other description<sup>9</sup>; and
- 552 (2) the incompatibility is detrimental to the interests of persons resident in England outside Greater London<sup>10</sup>.

Where the Secretary of State has given such a notice to the Authority, the non-standard equipment may no longer be used in connection with a charging scheme except with the authorisation of the Secretary of State<sup>11</sup>. Any such authorisation may be given subject to conditions<sup>12</sup> and any such authorisation and any such conditions may be varied or revoked<sup>13</sup>.

1 As to the Greater London Authority see PARA 79 et seq ante. The functions of the Authority under the Greater London Authority Act 1999 s 295(2), Sch 23 (as amended) are exercisable by the Mayor of London: see PARA 335 ante. As to the Mayor of London see PARA 81 ante. As to the exercise of functions generally see PARA 164 et seq ante. As to the giving of directions see PARA 13 ante.

2 As to Transport for London see PARAS 269-321 ante.

3 As to the London boroughs and their councils see PARAS 30, 35-39, 59 et seq ante.

4 For the meaning of 'charging scheme' see PARA 336 ante.

5 Greater London Authority Act 1999 Sch 23 para 29(1).

6 As to the Secretary of State see PARA 12 note 2 ante.

7 For the meaning of 'notice' see PARA 83 note 10 ante.

8 'National standard' means any standard approved by the Secretary of State by regulations under the Transport Act 2000 s 176(2); Greater London Authority Act 1999 Sch 23 para 29(6) (amended by the Transport Act 2000 s 199, Sch 13 paras 1, 14). For the meaning of 'regulations' para 344 note 14 ante.

9 Greater London Authority Act 1999 Sch 23 para 29(2)(a). As to Greater London see PARA 29 ante.

10 Ibid Sch 23 para 29(2)(b).

11 Ibid Sch 23 para 29(3).

12 Ibid Sch 23 para 29(4).

13 Ibid Sch 23 para 29(5).

### **UPDATE**

### **359 Approval of equipment [and directions for use]**



TEXT AND NOTES 1-5--Greater London Authority Act 1999 Sch 23 para 29(1) amended, Sch 23 para 29(3A), (3B) added: Local Transport Act 2008 s 116(5), (6).

NOTE 8--Transport Act 2000 s 176(2) amended: Local Transport Act 2008 s 116(2).

NOTES 12, 13--Greater London Authority Act 1999 Sch 23 para 29(4), (5) amended: Local Transport Act 2008 s 116(7).

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### **360. Evidence.**

The Lord Chancellor may by regulations<sup>1</sup> make provision for or in connection with permitting evidence of a fact relevant to proceedings for an offence<sup>2</sup>, or proceedings in respect of a failure to comply with the provisions of a charging scheme<sup>3</sup>, to be given by the production of a record produced by a prescribed<sup>4</sup> device, and a certificate<sup>5</sup> (whether in the same or another document) as to the circumstances in which the record was produced signed by a prescribed person<sup>6</sup>.

1 For the meaning of 'regulations' see PARA 344 note 14 ante.

2 Ie an offence under the Greater London Authority Act 1999 s 295(2), Sch 23 (as amended).

3 For the meaning of 'charging scheme' see PARA 336 ante.

4 'Prescribed' means specified in, or determined in accordance with, regulations: Greater London Authority Act 1999 Sch 23 para 1(1). See note 6 infra.

5 As to the meaning of 'certificate' see PARA 111 note 4 ante.

6 Greater London Authority Act 1999 Sch 23 para 30 (amended by the Transport Act 2000 s 199, Sch 13 paras 1, 15). As to evidence produced by a prescribed device see the Road User Charging (Enforcement and Adjudication) (London) Regulations 2001, SI 2001/2313, reg 6.

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### **361. Determination of disputes and appeals.**

The Lord Chancellor may by regulations<sup>1</sup> make provision for or in connection with<sup>2</sup>: (1) the determination of disputes<sup>3</sup>; (2) appeals against determinations or any failure to make a determination<sup>4</sup>; and (3) the appointment of persons to hear any such appeals<sup>5</sup>.

<sup>1</sup> For the meaning of 'regulations' see PARA 344 note 14 ante.

<sup>2</sup> Greater London Authority Act 1999 s 295(2), Sch 23 para 28 (amended by the Transport Act 2000 s 199, Sch 13 paras 1, 13).

<sup>3</sup> Greater London Authority Act 1999 Sch 23 para 28(a). In exercise of the power under Sch 23 para 28 (as amended) the Lord Chancellor has made the Road User Charging (Enforcement and Adjudication) (London) Regulations 2001, SI 2001/2313.

<sup>4</sup> Greater London Authority Act 1999 Sch 23 para 28(b). As to regulations made under this provision see note 3 supra.

<sup>5</sup> Ibid Sch 23 para 28(c). As to regulations made under this provision see note 3 supra.

#### **UPDATE**

### **361 Determination of disputes and appeals**

NOTE 3--SI 2001/2313 amended: see PARA 346 NOTE 4. As to adjudicators' discretion under SI 2001/2313, see *R (on the application of Walmsley) v Lane* [2005] EWCA Civ 1540, [2006] LGR 280. See further Constitutional Reform Act 2005 s 85, Sch 14 Pt 3.

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### **362. Expenses and arrangements.**

The Greater London Authority<sup>1</sup>, Transport for London<sup>2</sup> or a London borough council<sup>3</sup> may:

- 553 (1) incur expenditure in or in connection with the establishment or operation of a charging scheme<sup>4</sup>; or
- 554 (2) enter into arrangements (including arrangements for forming or participating in companies<sup>5</sup>) with any body or person in respect of the operation of a charging scheme or relating to the installation or operation of any equipment used for or in connection with the operation of a charging scheme<sup>6</sup>.

1 As to the Greater London Authority see PARA 79 et seq ante. The functions of the Authority under the Greater London Authority Act 1999 s 295(2), Sch 23 (as amended) are exercisable by the Mayor of London: see PARA 335 ante. As to the Mayor of London see PARA 81 ante. As to the exercise of functions generally see PARA 164 et seq ante.

2 As to Transport for London see PARAS 269-321 ante.

3 As to the London boroughs and their councils see PARAS 30, 35-39, 59 et seq ante. As to the treatment of the Common Council of the City of London as a London borough council see PARA 338 note 3 ante.

4 Greater London Authority Act 1999 Sch 23 para 32(a). For the meaning of 'charging scheme' see PARA 336 ante.

5 For the meaning of 'company' see PARA 17 note 19 ante.

6 Greater London Authority Act 1999 Sch 23 para 32(b).

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### **363. Directions by the Greater London Authority.**

The Greater London Authority<sup>1</sup> may give to any London borough council<sup>2</sup> general or specific directions requiring the council to exercise, in such manner as may be specified in the directions (1) any of the council's powers<sup>3</sup>; or (2) for purposes connected with a charging scheme<sup>4</sup> made by that council or any other authority, any of the council's powers under any other enactment relating to the management or control of traffic<sup>5</sup>. A London borough council must comply with any directions given to the council by the Authority<sup>6</sup>.

1 As to the Greater London Authority see PARA 79 et seq ante. The functions of the Authority under the Greater London Authority Act 1999 s 295(2), Sch 23 (as amended) are exercisable by the Mayor of London: see PARA 335 ante. As to the Mayor of London see PARA 81 ante. As to the exercise of functions generally see PARA 164 et seq ante.

2 As to the London boroughs and their councils see PARAS 30, 35-39, 59 et seq ante.

3 Ie under the Greater London Authority Act 1999 Sch 23 (as amended).

4 For the meaning of 'charging scheme' see PARA 336 ante.

5 Greater London Authority Act 1999 Sch 23 para 33(1). As to the giving of directions see PARA 13 ante.

6 Ibid Sch 23 para 33(2).

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### **364. Guidance by the Greater London Authority.**

The Greater London Authority<sup>1</sup> may issue guidance<sup>2</sup> to Transport for London<sup>3</sup> or any London borough council<sup>4</sup> in relation to the discharge of their functions<sup>5</sup>. Transport for London or a London borough council in exercising any such function must have regard to any guidance issued by the Authority<sup>6</sup>. Such guidance must be published in such manner as the Authority considers appropriate, and the Authority may at any time vary or revoke it<sup>7</sup>.

1 As to the Greater London Authority see PARA 79 et seq ante. The functions of the Authority under the Greater London Authority Act 1999 s 295(2), Sch 23 (as amended) are exercisable by the Mayor of London: see PARA 335 ante. As to the Mayor of London see PARA 81 ante. As to the exercise of functions generally see PARA 164 et seq ante.

2 For the meaning of 'guidance' see PARA 96 note 2 ante.

3 As to Transport for London see PARAS 269-321 ante.

4 As to the London boroughs and their councils see PARAS 30, 35-39, 59 et seq ante.

5 Greater London Authority Act 1999 Sch 23 para 34(1). This provision applies to the functions of Transport for London and the London borough councils under Sch 23 (as amended).

6 Ibid Sch 23 para 34(2).

7 Ibid Sch 23 para 34(3) (added by the Transport Act 2000 s 199, Sch 13 paras 1, 16).

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### **365. Information.**

Information obtained by any Minister of the Crown<sup>1</sup> or government department or any local authority<sup>2</sup> or other statutory body may be disclosed to a charging authority<sup>3</sup> for or in connection with the exercise of any of its functions with respect to a charging scheme<sup>4</sup>.

Information obtained by a charging authority for or in connection with any of its functions other than functions with respect to a charging scheme may be used by the authority for or in connection with the exercise of any of its functions with respect to a charging scheme<sup>5</sup>.

Any information:

555 (1) which has been or could have been disclosed to a charging authority<sup>6</sup> for or in connection with the exercise of any of its functions with respect to a charging scheme<sup>7</sup>; or

556 (2) which has been or could be used by an authority<sup>8</sup> for or in connection with the exercise of any of those functions<sup>9</sup>,

may be disclosed to any person with whom the authority has entered into specified arrangements<sup>10</sup>.

Information so disclosed to a person: (a) may be disclosed to any other person for or in connection with the charging scheme<sup>11</sup>; but (b) may not be used (by him or any other person to whom it is disclosed under head (a) above) otherwise than for or in connection with the charging scheme<sup>12</sup>.

1 As to the meaning of 'Minister of the Crown' see PARA 12 note 1 ante.

2 For the meaning of 'local authority' see PARA 17 note 9 ante.

3 For the meaning of 'charging authority' see PARA 338 note 9 ante.

4 Greater London Authority Act 1999 s 295(2), Sch 23 para 34A(1) (Sch 23 para 34A added by the Transport Act 2000 s 199, Sch 13 paras 1, 17). For the meaning of 'charging scheme' see PARA 336 ante.

5 Greater London Authority Act 1999 Sch 23 para 34A(2) (as added: see note 4 supra).

6 *Ie* under *ibid* Sch 23 para 34A(1) (as added): see the text to notes 1-4 supra.

7 *Ibid* Sch 23 para 34A(3)(a) (as added: see note 4 supra).

8 *Ie* under *ibid* Sch 23 para 34A(2) (as added): see the text to note 5 supra.

9 *Ibid* Sch 23 para 34A(3)(b) (as added: see note 4 supra).

10 *Ibid* Sch 23 para 34A(3) (as added: see note 4 supra). The arrangements referred to are arrangements under Sch 23 para 32(b): see PARA 362 ante.

11 *Ibid* Sch 23 para 34A(4)(a) (as added: see note 4 supra).

12 *Ibid* Sch 23 para 34A(4)(b) (as added: see note 4 supra).

### **UPDATE**

### 365 Information

TEXT AND NOTES--The Secretary of State may direct (1) Transport for London; (2) any London borough council; or (3) the Authority to provide the Secretary of State, within a specified period, with specified information connected with any aspect of the performance or proposed performance of their functions under the Greater London Authority Act 1999 Sch 23: Greater London Authority Act 1999 Sch 23 para 34B(1) (Sch 23 para 34B added by the Local Transport Act 2008 s 117(2)). The information that may be specified in such a direction must be information which the body has in its possession or can reasonably be expected to acquire: Greater London Authority Act 1999 Sch 23 para 34B(2). A direction under Sch 23 para 34B may be given to two or more of the bodies mentioned in heads (1) to (3) or to such of those bodies as are specified in the direction: Sch 23 para 34B(3). The Secretary of State may charge a reasonable fee in respect of the cost of supplying information under Sch 23 para 34A(1) or (3): Sch 23 para 34A(5) (Sch 23 para 34A(5)-(7) added by the Local Transport Act 2008 s 118(9)). Where Transport for London or a London borough council asks the Secretary of State to obtain overseas registration information from an overseas registration authority with a view to the Secretary of State disclosing that information under the Greater London Authority Act 1999 Sch 23(1) or (3), the Secretary of State may charge a reasonable fee in respect of the cost of obtaining, or seeking to obtain, the information: Greater London Authority Act 1999 Sch 23 para 34A(6). As to the meaning of 'overseas registration authority' and 'overseas registration information', see Sch 23 para 34A(7).

TEXT AND NOTES 1-4--Greater London Authority Act 1999 Sch 23 para 34A(1) amended: Local Transport Act 2008 s 118(7).

TEXT AND NOTE 5--Information obtained by Transport for London or a London borough council for or in connection with its functions other than its functions under the Greater London Authority Act 1999 Sch 23 may be used by it for or in connection with the performance or proposed performance of any of its functions under Sch 23 or with respect to a charging scheme or proposed charging scheme: Greater London Authority Act 1999 Sch 23 para 34A(2) (substituted by the Local Transport Act 2008 s 118(8)).



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### 366. Crown application.

The statutory provisions concerning road user charging<sup>1</sup> and regulations<sup>2</sup> and charging schemes<sup>3</sup> in relation thereto<sup>4</sup> bind the Crown<sup>5</sup>. No contravention by the Crown of any such provisions or of any regulations or charging scheme made in relation thereto make the Crown criminally liable, but the High Court may, on the application of a charging authority<sup>6</sup>, declare unlawful any act or omission of the Crown which constitutes such a contravention<sup>7</sup>. However, such provisions and regulations and charging schemes made in relation thereto apply to motor vehicles<sup>8</sup> or persons in the public service of the Crown as they apply to other motor vehicles or persons<sup>9</sup>, but no power of entry<sup>10</sup> is exercisable in relation to any motor vehicle in the public service of the Crown<sup>11</sup>. Nothing in the provisions described above is to be taken as in any way affecting Her Majesty in her private capacity<sup>12</sup>.

1    Ie the provisions of the Greater London Authority Act 1999 s 295(2), Sch 23 (as amended).

2    For the meaning of 'regulations' para 344 note 14 ante.

3    For the meaning of 'charging scheme' see PARA 336 ante.

4    Ie regulations and charging schemes made under the Greater London Authority Act 1999 Sch 23 (as amended).

5    Ibid Sch 23 para 36(1).

6    For the meaning of 'charging authority' see PARA 338 note 9 ante.

7    Greater London Authority Act 1999 Sch 23 para 36(2).

8    For the meaning of 'motor vehicle' see PARA 336 note 1 ante.

9    Greater London Authority Act 1999 Sch 23 para 36(3).

10   Ie conferred by ibid Sch 23 (as amended) or regulations made under Sch 23 (as amended).

11   Ibid Sch 23 para 36(4).

12   Ibid Sch 23 para 36(5). Schedule 23 para 36(5) is to be construed as if the Crown Proceedings Act 1947 s 38(3) (interpretation of references in the Crown Proceedings Act 1947 to Her Majesty in her private capacity) were contained in the Greater London Authority Act 1999: Sch 23 para 36(5). See further CROWN PROCEEDINGS AND CROWN PRACTICE vol 12(1) (Reissue) PARA 103.

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### **(iii) Workplace Parking Levy**

#### **367. Workplace parking levy.**

Each of the following bodies, namely: (1) Transport for London<sup>1</sup>; (2) any London borough council<sup>2</sup>; or (3) the Common Council of the City of London<sup>3</sup>, may establish and operate schemes for the licensing of persons providing workplace parking places in Greater London<sup>4</sup>.

The power to make a licensing scheme<sup>5</sup> includes power to vary or revoke such a scheme<sup>6</sup>. Revenue is raised by means of a licensing scheme under which licences are granted, charges are made applicable in respect of licences and penalty charges may be imposed<sup>7</sup>.

1 As to Transport for London see PARAS 269-321 ante.

2 As to the London boroughs and their councils see PARAS 30, 35-39, 59 et seq ante.

3 For the purposes of the Greater London Authority Act 1999 s 296(2), Sch 24 (as amended):

95 (1) the City of London is to be treated as if it were a London borough (Sch 24 para 1(4)(a));

96 (2) the Common Council of the City of London is to be treated as if it were the council for a London borough (Sch 24 para 1(4)(b)); and

97 (3) the Inner Temple and the Middle Temple are to be treated as forming part of the City (Sch 24 para 1(4)(c)).

As to the Common Council of the City of London see PARA 51 et seq ante.

4 Ibid s 296(1). Although the marginal note to s 296 and the heading to Sch 24 refer to a 'workplace parking levy' the word 'levy' does not appear in the body of either s 296 or Sch 24 (as amended).

5 'Licensing scheme' means a scheme for the licensing of persons providing workplace parking places at premises in an area designated in the scheme: ibid Sch 24 para 1(1). 'Licensing area' means an area to which a licensing scheme applies: Sch 24 para 1(1).

6 Ibid s 296(2), Sch 24 para 39 (amended by the Transport Act 2000 ss 199, 274, Sch 13 paras 19, 34, Sch 31 Pt III). The provisions relating to the making of a licensing scheme (ie the Greater London Authority Act 1999 Sch 24 para 7 (as amended): see PARA 370 post) also apply in relation to the variation or revocation of a licensing scheme: Sch 24 para 39 (as amended).

7 Ibid Sch 24 paras 7 (as amended), 11, 13, 14, 18 (as amended), 19 (as substituted); see further PARAS 370, 372, 374, 375, 378, 379 post.

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### **368. Provision of workplace parking places.**

A workplace parking place is provided at any premises at any time if a parking place provided at the premises is at that time occupied by a motor vehicle<sup>1</sup> used<sup>2</sup>:

- 557 (1) by a relevant person<sup>3</sup>;
- 558 (2) by an employee<sup>4</sup>, agent, supplier<sup>5</sup>, business customer<sup>6</sup> or business visitor<sup>7</sup> of a relevant person<sup>8</sup>;
- 559 (3) by a pupil or student attending a course of education or training provided by a relevant person<sup>9</sup>; or
- 560 (4) where a body whose affairs are controlled by its members is a relevant person, by a member of the body engaged in the carrying on of any business of the body<sup>10</sup>,

for attending a place at which the relevant person carries on business at or in the vicinity of the premises<sup>11</sup>.

1 For the meaning of 'motor vehicle' see PARA 336 note 1 ante; definition applied by the Greater London Authority Act 1999 Sch 24 para 1(1).

2 Ibid Sch 24 paras 1(1), 3(1) (amended by the Transport Act 2000 s 199, Sch 13 paras 19, 21(a)).

3 Greater London Authority Act 1999 Sch 24 para 3(1)(a). 'Relevant person' means: (1) the person who provides the parking place in question; (2) any other person with whom that person has entered into arrangements to provide the parking place (whether or not for that other person's own use); or (3) any person who is associated with a person who falls within head (1) or head (2) supra: Sch 24 para 3(2). Any two persons are 'associated' if and only if: (a) one is a company of which the other (directly or indirectly) has control; or (b) both are companies of which a third person (directly or indirectly) has control: Sch 24 para 3(3). For the meaning of 'company' see PARA 17 note 19 ante.

4 'Employee' means a person employed under a contract of employment: ibid Sch 24 para 1(1). 'Employed' means employed under a contract of employment: Sch 24 para 1(1). 'Contract of employment' means a contract of service or apprenticeship, whether express or implied, and (if express) whether oral or in writing: Sch 24 para 1(1).

5 For these purposes, 'supplier', in relation to a relevant person, means a person supplying, or seeking to supply, goods or services to the relevant person for the purposes of a business carried on by the relevant person, or any agent or sub-contractor of such a person: ibid Sch 24 para 3(4). 'Business' includes: (1) any trade, profession, vocation or undertaking; (2) the functions of any office holder; (3) the provision of any course of education or training; and (4) the functions of, or any activities carried on by, a government department, local authority or other statutory body: Sch 24 para 3(4). For the meaning of 'local authority' see PARA 17 note 9 ante.

6 For these purposes, 'business customer', in relation to a relevant person, means a client or customer of the relevant person who is attending at the premises of the relevant person for the purposes of a business carried on by that client or customer: ibid Sch 24 para 3(4).

7 For these purposes, 'business visitor', in relation to a relevant person, means an individual who in the course of his employment, or in the course of carrying on a business or for the purposes of a business carried on by him, is visiting the relevant person or any premises whose occupier is the relevant person: ibid Sch 24 para 3(4).

8 Ibid Sch 24 para 3(1)(b).

9 Ibid Sch 24 para 3(1)(c).

10 Ibid Sch 24 para 3(1)(d) (substituted by the Transport Act 2000 Sch 13 paras 19, 21(b)).

11 Greater London Authority Act 1999 Sch 24 para 3(1). The Secretary of State may by regulations amend Sch 24 para 3 (as amended) for the purpose of adding, removing or varying cases where a person provides a workplace parking place: Sch 24 para 4. As to the Secretary of State see PARA 12 note 2 ante. 'Regulations' means (except where otherwise provided) regulations made by the Secretary of State: Greater London Authority Act 1999 Sch 24 para 1(1) (definition amended by the Transport Act 2000 Sch 13 paras 19, 20(1), (5)).

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### **369. Controlled vehicles.**

Where the provision of a parking place for a motor vehicle<sup>1</sup> by a person at any premises constitutes the provision of a workplace parking place<sup>2</sup>, then<sup>3</sup> the vehicle is a 'controlled vehicle' as respects that person and those premises, subject to any exemption conferred by a licensing scheme<sup>4</sup>.

1 For the meaning of 'motor vehicle' see PARA 336 note 1 ante; definition applied by the Greater London Authority Act 1999 s 296(2), Sch 24 para 1(1).

2 As to the provision of workplace parking places see PARA 368 ante.

3 Ie for the purposes of the Greater London Authority Act 1999 Sch 24 (as amended).

4 Ibid Sch 24 paras 1(1), 5. For the meaning of 'licensing scheme' see PARA 367 note 5 ante.

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### 370. Making a licensing scheme.

Any licensing scheme<sup>1</sup> must be contained in an order made by the authority<sup>2</sup> making the scheme<sup>3</sup>, and submitted to, and confirmed (with or without modification) by, the Greater London Authority<sup>4</sup>. An order containing a licensing scheme must be in such form as the Authority may determine<sup>5</sup>. The Authority may:

- 561 (1) consult, or require an authority making a licensing scheme to consult, other persons<sup>6</sup>;
- 562 (2) require such an authority to publish its proposals for the scheme and to consider objections to the proposals<sup>7</sup>;
- 563 (3) hold an inquiry, or cause an inquiry to be held, for the purposes of any order containing a licensing scheme<sup>8</sup>;
- 564 (4) appoint the person or persons by whom any such inquiry is to be held<sup>9</sup>;
- 565 (5) make modifications to any such order, whether in consequence of any objections or otherwise, before the order takes effect<sup>10</sup>;
- 566 (6) require the authority by whom any such order is made to publish notice of the order and of its effect<sup>11</sup>.

1 For the meaning of 'licensing scheme' see PARA 367 note 5 ante.

2 As to the authorities which may make and operate licensing schemes see PARA 367 ante. The order is made under the Greater London Authority Act 1999 s 296(2), Sch 24 (as amended): see Sch 24 para 7(1)(a).

3 Ibid Sch 24 para 7(1)(a).

4 Ibid Sch 24 para 7(1)(b). As to the Greater London Authority see PARA 79 et seq ante. The functions of the Authority under Sch 24 (as amended) are exercisable by the Mayor of London: see PARA 335 ante. As to the Mayor of London see PARA 81 ante. As to the exercise of functions generally see PARA 164 et seq ante.

The approval of the Greater London Authority must be obtained before there is included in a borough scheme any provision of a description specified in a direction given by the Authority to the London borough councils: Sch 24 para 9. 'Borough scheme' means any licensing scheme other than a TfL scheme: Sch 24 para 1(1). 'TfL scheme' means a licensing scheme made by Transport for London: Sch 24 para 1(1). For the meaning of 'licensing scheme' see PARA 367 note 5 ante. As to Transport for London see PARAS 269-321 ante. As to the London boroughs and their councils see PARAS 30, 35-39, 59 et seq ante. As to the treatment of the Common Council of the City of London as a London borough council see PARA 367 note 3 ante. As to the giving of directions see PARA 13 ante.

5 Ibid Sch 24 para 7(2).

6 Ibid Sch 24 para 7(3)(a).

7 Ibid Sch 24 para 7(3)(aa) (added by the Transport Act 2000 s 199, Sch 13 paras 19, 22(1), (2)).

8 Greater London Authority Act 1999 Sch 24 para 7(3)(b). The Local Government Act 1972 s 250(2), (3) (as amended) (see LOCAL GOVERNMENT vol 69 (2009) PARA 105) applies in relation to any inquiry held by virtue of the Greater London Authority Act 1999 Sch 24 para 7(3)(b): Sch 24 para 7(4) (added by the Transport Act 2000 Sch 13 paras 19, 22(1), (5)). Where such an inquiry is held, for the purposes of any order containing a licensing scheme: (1) the costs of the inquiry are paid by the licensing authority; and (2) the parties at the inquiry bear their own costs: Greater London Authority Act 1999 Sch 24 para 7(5) (added by the Transport Act 2000 Sch 13 paras 19, 22(1), (5)).

9 Greater London Authority Act 1999 Sch 24 para 7(3)(c).

- 10 Ibid Sch 24 para 7(3)(d).
- 11 Ibid Sch 24 para 7(3)(da) (added by the Transport Act 2000 Sch 13 paras 19, 22(1), (3)).

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### **371. Joint licensing schemes.**

The Greater London Authority<sup>1</sup> may authorise or require two or more London borough councils<sup>2</sup> acting jointly to make a licensing scheme<sup>3</sup> applying to the whole or part of their combined areas<sup>4</sup>. This is referred to as a 'joint licensing scheme'<sup>5</sup>.

1 As to the Greater London Authority see PARA 79 et seq ante. The functions of the Authority under the Greater London Authority Act 1999 s 296(2), Sch 24 (as amended) are exercisable by the Mayor of London: see PARA 335 ante. As to the Mayor of London see PARA 81 ante. As to references to the exercise of functions see PARA 164 et seq ante.

2 As to the London boroughs and their councils see PARAS 30, 35-39, 59 et seq ante. As to the treatment of the Common Council of the City of London as a London borough council see PARA 367 note 3 ante.

3 For the meaning of 'licensing scheme' see PARA 367 note 5 ante.

4 Greater London Authority Act 1999 Sch 24 para 10(1). In the application of Sch 24 (as amended) in relation to a joint licensing scheme, any reference to the licensing authority is a reference to all or any of the London borough councils concerned: Sch 24 para 10(2). 'Licensing authority' means an authority which is the maker of a licensing scheme: Sch 24 para 1(1).

5 Ibid Sch 24 para 10(1).



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### **372. The contents of a licensing scheme.**

A licensing scheme<sup>1</sup> must: (1) designate the area<sup>2</sup> to which it applies<sup>3</sup>; (2) state the days on which, and hours during which, the authorisation of a licence<sup>4</sup> is required<sup>5</sup>; and (3) specify the rates of charge applicable in respect of licences<sup>6</sup>.

A licensing scheme must state whether or not it is to remain in force indefinitely and, if it is not to remain in force indefinitely, it must state the period for which it is to remain in force<sup>7</sup>.

1 For the meaning of 'licensing scheme' see PARA 367 note 5 ante.

2 For the meaning of 'licensing area' see PARA 367 note 5 ante.

3 Greater London Authority Act 1999 s 296(2), Sch 24 para 11(a).

4 'Licence' means a licence authorising the parking of a maximum number of controlled vehicles at any one time in parking places provided at the licensed premises; and 'licensed unit' means each unit comprised in that maximum number: *ibid* Sch 24 para 1(1) (definition amended by the Transport Act 2000 ss 199, 274, Sch 13 paras 19, 20(1), (2), Sch 31 Pt III). 'Licensed premises', in the case of any licence, means the premises to which the licence relates: Greater London Authority Act 1999 Sch 24 para 1(1). As to the meaning of 'controlled vehicle' see PARA 369 ante.

5 *Ibid* Sch 24 para 11(b).

6 *Ibid* Sch 24 para 11(c).

7 *Ibid* Sch 24 para 38.

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**373. Prohibition on multiple licensing schemes.**

The same premises are not to be subject to more than one licensing scheme<sup>1</sup> at the same time<sup>2</sup>.

1 For the meaning of 'licensing scheme' see PARA 367 note 5 ante.

2 Greater London Authority Act 1999 s 296(2), Sch 24 para 12.

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### **374. The charges.**

The rates of charge applicable in respect of licences<sup>1</sup> must be expressed as a specified sum of money for each licensed unit<sup>2</sup>. The rates of charge that may be imposed by a licensing scheme<sup>3</sup> include different charges (which may be no charge) for<sup>4</sup>:

- 567 (1) different days<sup>5</sup>;
- 568 (2) different times of day<sup>6</sup>;
- 569 (3) different parts of a licensing area<sup>7</sup>;
- 570 (4) different classes of controlled vehicles<sup>8</sup>; and
- 571 (5) different numbers of licensed units<sup>9</sup>.

In setting the rates of charge, regard may be had to the purposes for which the licensing authority<sup>10</sup> is to apply the net proceeds<sup>11</sup> of the scheme<sup>12</sup>.

1 For the meaning of 'licence' see PARA 372 note 4 ante.

2 Greater London Authority Act 1999 s 296(2), Sch 24 para 13(1)(a). For the meaning of 'licensed unit' see PARA 372 note 4 ante.

3 For the meaning of 'licensing scheme' see PARA 367 note 5 ante.

4 Greater London Authority Act 1999 Sch 24 para 13(2).

5 Ibid Sch 24 para 13(2)(a).

6 Ibid Sch 24 para 13(2)(b).

7 Ibid Sch 24 para 13(2)(c). For the meaning of 'licensing area' see PARA 367 note 5 ante.

8 Ibid Sch 24 para 13(2)(d). As to the meaning of 'controlled vehicle' see PARA 369 ante.

9 Ibid Sch 24 para 13(2)(e).

10 For the meaning of 'licensing authority' see PARA 371 note 5 ante.

11 'Net proceeds', in relation to a licensing scheme and a financial year, means the amount (if any) by which the amounts received under or in connection with the scheme which are attributable to the financial year exceed the expenses incurred for or in connection with the scheme which are so attributable: Greater London Authority Act 1999 Sch 24 para 1(1) (definition amended by the Transport Act 2000 s 199, Sch 13 paras 19, 20(1), (3)). For the meaning of 'financial year' see PARA 131 note 21 ante. For the purposes of the Greater London Authority Act 1999 Sch 24 (as amended), the amounts received under or in connection with a licensing scheme and the expenses incurred for or in connection with such a scheme, and the extent to which they are attributable to any financial year, are to be determined in accordance with regulations: Sch 24 para 1(2) (substituted by the Transport Act 2000 Sch 13 paras 19, 20(1), (6)).

12 Greater London Authority Act 1999 Sch 24 para 13(3).

## **UPDATE**

### **374 The charges**

NOTE 11--As to the determination of the net proceeds, see the Road User Charging and Workplace Parking Levy (Net Proceeds) (England) Regulations 2003, SI 2003/110.

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### **375. The contents and duration of a licence.**

A licence<sup>1</sup> under a licensing scheme<sup>2</sup> must:

- 572 (1) state the name of the person to whom it is granted<sup>3</sup>;
- 573 (2) identify the premises to which it relates<sup>4</sup>;
- 574 (3) specify the maximum number of controlled vehicles<sup>5</sup> which may be parked at those premises at any one time<sup>6</sup>; and
- 575 (4) state the amount paid in respect of the licence and set out the calculation of that amount<sup>7</sup>.

A licence may be granted subject to conditions<sup>8</sup>. A licence may not be granted for a period of more than one year<sup>9</sup>.

1 For the meaning of 'licence' see PARA 372 note 4 ante.

2 For the meaning of 'licensing scheme' see PARA 367 note 5 ante.

3 Greater London Authority Act 1999 s 296(2), Sch 24 para 14(1)(a).

4 Ibid Sch 24 para 14(1)(b).

5 As to the meaning of 'controlled vehicle' see PARA 369 ante.

6 Greater London Authority Act 1999 Sch 24 para 14(1)(c).

7 Ibid Sch 24 para 14(1)(d).

8 Ibid Sch 24 para 14(2).

9 Ibid Sch 24 para 15 (substituted by the Transport Act 2000 s 199, Sch 13 paras 19, 23).

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### **376. Licensing procedure.**

A licensing scheme<sup>1</sup> may include provision for or in connection with: (1) the making of an application for a licence<sup>2</sup>; (2) the grant of a licence (which must be for the licensed units<sup>3</sup> applied for)<sup>4</sup>; (3) the issue of a licence<sup>5</sup>; and (4) the variation or revocation of a licence<sup>6</sup>. A person who intentionally provides false or misleading information in or in connection with an application for a licence is guilty of an offence<sup>7</sup>.

1 For the meaning of 'licensing scheme' see PARA 367 note 5 ante.

2 Greater London Authority Act 1999 s 296(2), Sch 24 para 16(1)(a) (amended by the Transport Act 2000 s 199, Sch 13 paras 19, 24). For the meaning of 'licence' see PARA 372 note 4 ante.

3 For the meaning of 'licensed unit' see PARA 372 note 4 ante.

4 Greater London Authority Act 1999 Sch 24 para 16(1)(b) (as amended: see note 2 supra). For the meaning of 'licence' see PARA 372 note 4 ante.

5 Ibid Sch 24 para 16(1)(c) (as amended: see note 2 supra).

6 Ibid Sch 24 para 16(1)(d) (as amended: see note 2 supra).

7 Ibid Sch 24 para 16(2) (added by the Transport Act 2000 Sch 13 paras 19, 24). A person guilty of such an offence is liable on summary conviction to a fine not exceeding the statutory maximum, or on conviction on indictment, to a fine: Greater London Authority Act 1999 Sch 24 para 16(2) (as so added). The 'statutory maximum', with reference to a fine or penalty on summary conviction for an offence, is the prescribed sum within the meaning of the Magistrates' Courts Act 1980 s 32 (as amended): see the Interpretation Act 1978 s 5, Sch 1 (definition added by the Criminal Justice Act 1988 s 170(1), Sch 15 para 58); and SENTENCING AND DISPOSITION OF OFFENDERS VOL 92 (2010) PARA 140.

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### **377. Exemptions and reduced rates.**

The Secretary of State<sup>1</sup> may by regulations<sup>2</sup> make provision for or in connection with exempting:

- 576 (1) a prescribed<sup>3</sup> number of parking places provided at any premises from being workplace parking places<sup>4</sup>; or
- 577 (2) any prescribed class of motor vehicles<sup>5</sup> from being controlled vehicles<sup>6</sup>,

whether generally or in the case of any prescribed description of premises or any prescribed description of disabled or other persons<sup>7</sup>.

The Secretary of State may also by regulations make provision for or in connection with:

- 578 (a) exemptions from licensing<sup>8</sup>;
- 579 (b) the application of reduced rates of charges for licences<sup>9</sup>; or
- 580 (c) the imposition of limits on the charges payable for a licence<sup>10</sup>,

in the case of any prescribed description of premises or any prescribed description of disabled or other persons or, in the case of head (b) or head (c) above, any prescribed class of motor vehicles<sup>11</sup>.

Subject to any such regulations, a licensing scheme<sup>12</sup> may make provision exempting a specified number of parking places provided at any premises from being workplace parking places, or any class of motor vehicles from being controlled vehicles, whether generally or in relation to persons or premises of a particular description<sup>13</sup>.

Subject to any such regulations, a licensing scheme may also make provision for or in connection with:

- 581 (i) exemptions from licensing<sup>14</sup>;
- 582 (ii) the application of reduced rates of charges for licences<sup>15</sup>; or
- 583 (iii) the imposition of limits on the charges payable for a licence<sup>16</sup>,

in the case of any particular description of persons or premises or, in the case of head (ii) or head (iii) above, any particular class of motor vehicles<sup>17</sup>.

<sup>1</sup> As to the Secretary of State see PARA 12 note 2 ante.

<sup>2</sup> For the meaning of 'regulations' see PARA 368 note 11 ante.

<sup>3</sup> 'Prescribed' means specified in, or determined in accordance with, regulations: Greater London Authority Act 1999 s 296(2), Sch 24 para 1(1).

<sup>4</sup> Ibid Sch 24 para 17(1)(a). As to the provision of workplace parking places see PARA 368 ante.

<sup>5</sup> For the meaning of 'motor vehicle' see PARA 336 note 1 ante; definition applied by ibid Sch 24 para 1(1). Any reference in Sch 24 (as amended) to a class of motor vehicles is a reference to a class defined or described by reference to any characteristics of the motor vehicles or to any other circumstances whatsoever: Sch 24 para 1(3).

- 6 Ibid Sch 24 para 17(1)(b). As to the meaning of 'controlled vehicle' see PARA 369 ante.
- 7 Ibid Sch 24 para 17(1). At the date at which this volume states the law no such regulations had been made.
- 8 Ibid Sch 24 para 17(2)(a).
- 9 Ibid Sch 24 para 17(2)(b). For the meaning of 'licence' see PARA 372 note 4 ante.
- 10 Ibid Sch 24 para 17(2)(c). As to the charges payable see PARA 374 ante.
- 11 Ibid Sch 24 para 17(2). See also note 5 supra. At the date at which this volume states the law no such regulations had been made.
- 12 For the meaning of 'licensing scheme' see PARA 367 note 5 ante.
- 13 Greater London Authority Act 1999 Sch 24 para 17(3). This provision is subject to Sch 24 paras 7 (as amended), 9 (see PARA 370 ante): Sch 24 para 17(3) (amended by the Transport Act 2000 s 199, Sch 13 paras 19, 25).
- 14 Greater London Authority Act 1999 Sch 24 para 17(4)(a).
- 15 Ibid Sch 24 para 17(4)(b).
- 16 Ibid Sch 24 para 17(4)(c).
- 17 Ibid Sch 24 para 17(4). This provision is subject to Sch 24 paras 7 (as amended), 9 (see PARAS 370 ante): Sch 24 para 17(4) (amended by the Transport Act 2000 s 199, Sch 13 paras 19, 25). See also note 5 supra.



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### **378. Penalty charges.**

Regulations<sup>1</sup> may make provision for or in connection with the imposition and payment of penalty charges in respect of acts, omissions, events or circumstances relating to or connected with a licensing scheme<sup>2</sup>. Such regulations may make provision for or in connection with setting the rates of penalty charges (which may include provision for discounts or surcharges)<sup>3</sup>. The Lord Chancellor may make regulations about the notification, adjudication and enforcement of penalty charges<sup>4</sup>.

1 For the meaning of 'regulations' see PARA 368 note 11 ante.

2 Greater London Authority Act 1999 s 296(2), Sch 24 para 18(1) (amended by the Transport Act 2000 s 199, Sch 13 paras 19, 26(1), (2)). For the meaning of 'licensing scheme' see PARA 367 note 5 ante. At the date at which this volume states the law no such regulations had been made.

3 Greater London Authority Act 2000 Sch 24 para 18(2).

4 Ibid Sch 24 para 18(3) (added by the Transport Act 2000 Sch 13 paras 19, 26(1), (3)).

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**379. Liability for charges.**

Charges imposed in respect of any premises by a licensing scheme<sup>1</sup> (including penalty charges<sup>2</sup> imposed in respect of any premises) must be paid by the occupier of the premises or, in prescribed<sup>3</sup> circumstances, by such person as is prescribed<sup>4</sup>.

1 For the meaning of 'licensing scheme' see PARA 367 note 5 ante.

2 As to penalty charges see PARA 378 ante.

3 'Prescribed' means specified in, or determined in accordance with, regulations: Greater London Authority Act 1999 s 296(2), Sch 24 para 1(1).

4 Ibid Sch 24 para 19 (substituted by the Transport Act 2000 s 199, Sch 13 paras 19, 27).

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### **380. Accounts and funds.**

A licensing authority<sup>1</sup> must keep an account relating to each of the authority's licensing schemes<sup>2</sup>. Each of the following bodies, namely the Greater London Authority<sup>3</sup>, Transport for London<sup>4</sup>, and a London borough council<sup>5</sup>, must keep an account relating to the sums received by the body which represent net proceeds<sup>6</sup> of licensing schemes for which the body is not the licensing authority<sup>7</sup>. Each of the bodies required to keep an account must prepare a statement of that account for each financial year<sup>8</sup>. Such a statement of account for any financial year must be published:

- 584 (1) in the case of a statement of account prepared by Transport for London, in the annual report of Transport for London<sup>9</sup> for that year<sup>10</sup>; and
- 585 (2) in any other case, in the annual accounts for that year of the body which prepared the statement of account<sup>11</sup>.

Regulations<sup>12</sup> may make further provision relating to: (a) accounts (including provision requiring or allowing the keeping of consolidated accounts relating to more than one licensing scheme)<sup>13</sup>; and (b) the preparation and publication of statements of such accounts<sup>14</sup>.

At the end of each financial year: (i) any deficit in an account<sup>15</sup> must be made good out of the body's general fund<sup>16</sup>; and (ii) any surplus in any such account (after the application of any of the net proceeds) must be applied towards making good to the general fund any amount charged to that fund under head (i) above in respect of the account in question in the ten years immediately preceding the financial year in question<sup>17</sup>. So much of any surplus as then remains must be carried forward in the account in question to the next financial year<sup>18</sup>.

1 For the meaning of 'licensing authority' see PARA 371 note 5 ante.

2 Greater London Authority Act 1999 s 296(2), Sch 24 para 21(1) (amended by the Transport Act 2000 s 199, Sch 13 paras 19, 29(1), (2)). For the meaning of 'licensing scheme' see PARA 367 note 5 ante.

3 Greater London Authority Act 1999 Sch 24 para 21(2)(a). As to the Greater London Authority see PARA 79 et seq ante.

4 Ibid Sch 24 para 21(2)(b). As to Transport for London see PARAS 269-321 ante.

5 Ibid Sch 24 para 21(2)(c). As to the London boroughs and their councils see PARAS 30, 35-39, 59 et seq ante. As to the treatment of the Common Council of the City of London as a London borough council see PARA 367 note 3 ante.

6 For the meaning of 'net proceeds' see PARA 374 note 11 ante.

7 Greater London Authority Act 1999 Sch 24 para 21(2) (amended by the Transport Act 2000 Sch 13 paras 19, 29(1), (2)).

8 Greater London Authority Act 1999 Sch 24 para 21(3) (amended by the Transport Act 2000 Sch 13 paras 19, 29(1), (3)). For the meaning of 'financial year' see PARA 131 note 21 ante.

9 Ie the report prepared under the Greater London Authority Act 1999 s 161: see PARA 295 ante.

10 Ibid Sch 24 para 21(4)(a).

11 Ibid Sch 24 para 21(4)(b).

12 For the meaning of 'regulations' see PARA 368 note 11 ante.

13 Greater London Authority Act 1999 Sch 24 para 21(4A)(a) (Sch 24 para 21(4A) added by the Transport Act 2000 Sch 13 paras 19, 29(1), (4)). The accounts referred to in the text are the accounts required to be kept under the Greater London Authority Act 1999 Sch 24 para 21(1) or (2) (as amended) (see the text and notes 1-7 supra). At the date at which this volume states the law no such regulations had been made.

14 Ibid Sch 24 para 21(4A)(b) (as added: see note 13 supra). At the date at which this volume states the law no such regulations had been made.

15 Ie an account required to be kept under ibid Sch 24 para 21(1) or (2) (as amended) (see the text and notes 1-7 supra).

16 Ibid Sch 24 para 21(5)(a). In the application of Sch 24 para 21 (as amended) in relation to Transport for London, any reference to its general fund is to be taken as a reference to its gross income: Sch 24 para 21(8).

17 Ibid Sch 24 para 21(5)(b), (6) (Sch 24 para 21(5)(b) amended by the Transport Act 2000 Sch 13 paras 19, 29(1), (5)).

18 Greater London Authority Act 1999 Sch 24 para 21(7).

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### **381. Application of the net proceeds.**

In the case of any licensing scheme<sup>1</sup> which comes into force during the period of ten years beginning with the inception of the Greater London Authority<sup>2</sup>, the net proceeds<sup>3</sup> of the scheme, during the scheme's initial period<sup>4</sup>, are available only for application for relevant transport purposes<sup>5</sup> by any one or more of the following bodies<sup>6</sup>, namely: (1) the Authority<sup>7</sup>; (2) Transport for London<sup>8</sup>; or (3) a London borough council<sup>9</sup>. Otherwise, the net proceeds of a licensing scheme must be applied only as may be specified in, or determined in accordance with, regulations<sup>10</sup>. Such regulations may include provision conferring a discretion on any body or person<sup>11</sup>.

The net proceeds of licensing schemes may only be applied for purposes which provide value for money<sup>12</sup>.

Before making any such regulations, the Secretary of State must make an assessment of what he considers to be the likely amounts of net proceeds of licensing schemes, and the potential for spending such net proceeds on relevant transport purposes which provide value for money<sup>13</sup>. Before making any such regulations, the Secretary of State must consult the Authority<sup>14</sup>. The Secretary of State may issue guidance<sup>15</sup> to the Authority, Transport for London and the London borough councils with respect to the appraisal of whether any application of net proceeds of a licensing scheme for any purpose provides value for money<sup>16</sup>. In determining how to apply the net proceeds of licensing schemes, the Authority, Transport for London and any London borough council must comply with any such guidance issued by the Secretary of State<sup>17</sup>. The Secretary of State may at any time vary the guidance<sup>18</sup>.

1 For the meaning of 'licensing scheme' see PARA 367 note 5 ante.

2 'The inception of the Greater London Authority' means the commencement of the term of office of the Mayor of London and the London Assembly members returned at the first ordinary election: Greater London Authority Act 1999 s 296(2), Sch 24 para 22(7). As to the term of office of the Mayor and Assembly members see PARA 100 ante. As to the Greater London Authority see PARA 79 et seq ante; and as to the Mayor of London and the London Assembly see PARAS 81-82 ante. For the meaning of 'Assembly member' see PARA 82 note 3 ante. For the meaning of 'ordinary election' see PARA 84 note 9 ante.

3 For the meaning of 'net proceeds' see PARA 374 note 11 ante.

4 'The initial period', in the case of any licensing scheme, means: (1) the period of ten years beginning with the coming into force of the scheme; or (2) such longer period as the Secretary of State may allow in the case of any particular scheme: Greater London Authority Act 1999 Sch 24 para 22(7). As to the Secretary of State see PARA 12 note 2 ante. In determining for the purposes of Sch 24 para 22 when the initial period there mentioned begins or expires in the case of any licensing scheme, regulations may make provision as to circumstances in which: (a) the same licensing scheme is to be regarded as continuing in force, notwithstanding the making of amendments or the revocation and replacement (with or without modifications) of a scheme; or (b) a different scheme is, or is not, to be regarded as coming into force: Sch 24 para 23(6).

5 'Relevant transport purpose' means any purpose which directly or indirectly facilitates the implementation of any policies or proposals set out in the Mayor's transport strategy: *ibid* Sch 24 para 1(1). As to the Mayor's transport strategy see PARAS 263-268 ante.

6 *Ibid* Sch 24 para 22(1). Schedule 24 para 22(1)-(5) is without prejudice to Sch 24 para 21(6) (application of surplus) (see PARA 380 ante): Sch 24 para 22(6).

7 *Ibid* Sch 24 para 22(1)(a). See note 6 *supra*.

8 Ibid Sch 24 para 22(1)(b). See note 6 supra. As to Transport for London see PARAS 269-321 ante.

9 Ibid Sch 24 para 22(1)(c). See note 6 supra. As to the London boroughs and their councils see PARAS 30, 35-39, 59 et seq ante. As to the treatment of the Common Council of the City of London as a London borough council see PARA 367 note 3 ante.

10 Ibid Sch 24 para 22(2). See note 6 supra. For the meaning of 'regulations' see PARA 368 note 11 ante. The provision that may be made by regulations under Sch 24 para 22(2) includes provision for Sch 24 para 22(1) to continue to apply, but with the substitution for the number of years for the time being there mentioned of a number of years greater than ten: Sch 24 para 22(4). At the date at which this volume states the law no regulations had been made under Sch 24 para 22(2).

11 Ibid Sch 24 para 22(3). See note 6 supra.

12 Ibid Sch 24 para 22(5). See note 6 supra.

13 Ibid Sch 24 para 23(1).

14 Ibid Sch 24 para 23(2).

15 For the meaning of 'guidance' see PARA 96 note 2 ante.

16 Greater London Authority Act 1999 Sch 24 para 23(3).

17 Ibid Sch 24 para 23(4).

18 Ibid Sch 24 para 23(5).

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### **382. Apportionment of net proceeds of licensing schemes.**

The Greater London Authority<sup>1</sup> may require a licensing scheme<sup>2</sup> to include provision for such portion of the net proceeds<sup>3</sup> as the Authority may determine to be paid to the Authority, Transport for London<sup>4</sup>, or such London borough councils<sup>5</sup> as may be specified or described by the Authority, for application for relevant transport purposes<sup>6</sup>. The payment by the Authority of a sum received by the Authority to any body corporate for the purpose of the application of that sum by that body for relevant transport purposes is to be taken to be the application of that sum by the Authority for relevant transport purposes<sup>7</sup>.

1 As to the Greater London Authority see PARA 79 et seq ante.

2 For the meaning of 'licensing scheme' see PARA 367 note 5 ante.

3 For the meaning of 'net proceeds' see PARA 374 note 11 ante.

4 As to Transport for London see PARAS 269-321 ante.

5 As to the London boroughs and their councils see PARAS 30, 35-39, 59 et seq ante. As to the treatment of the Common Council of the City of London as a London borough council see PARA 367 note 3 ante.

6 Greater London Authority Act 1999 s 296(2), Sch 24 para 24(1). For the meaning of 'relevant transport purpose' see PARA 381 note 5 ante. The functions of the Authority under Sch 24 (as amended) are exercisable by the Mayor of London: see PARA 335 ante. As to the Mayor of London see PARA 81 ante. As to the exercise of functions generally see PARA 164 et seq ante.

7 Ibid Sch 24 para 24(3).

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### **383. Licensing authority's ten year plan for its share of net proceeds of the scheme.**

A licensing scheme<sup>1</sup> must include a statement of the licensing authority's<sup>2</sup> proposed general plan for applying the authority's share of the net proceeds<sup>3</sup> of the scheme during the opening ten year period<sup>4</sup>. An order containing a licensing scheme does not come into force unless and until the required statement has been approved: (1) by the Secretary of State<sup>5</sup>; and (2) if the scheme is a borough scheme<sup>6</sup>, by the Greater London Authority<sup>7</sup>. In the case of a borough scheme, an application for approval under head (1) above may only be made by the Authority acting on behalf of the licensing authority<sup>8</sup>, and after the giving by the Authority of the approval required by head (2) above<sup>9</sup>.

1 For the meaning of 'licensing scheme' see PARA 367 note 5 ante.

2 For the meaning of 'licensing authority' see PARA 371 note 5 ante.

3 For the meaning of 'net proceeds' see PARA 374 note 11 ante. In the Greater London Authority Act 1999 s 296(2), Sch 24 (as amended), any reference to a licensing authority's share of the net proceeds of a licensing scheme is a reference to so much of the net proceeds of the scheme as remains after the making of any payments to other bodies or persons required by virtue of Sch 24 para 24(1) (see PARA 382 ante) or regulations under Sch 24 para 22(2) (see PARA 381 ante): Sch 24 para 24(2). For the meaning of 'regulations' see PARA 368 note 11 ante.

4 Ibid Sch 24 para 25(1). 'The opening ten year period', in relation to any licensing scheme, means the period which begins with the date on which the scheme comes into force and ends with the tenth financial year that commences on or after that date: Sch 24 para 25(2). For the meaning of 'financial year' see PARA 131 note 21 ante.

5 Ibid Sch 24 para 25(3)(a). As to the Secretary of State see PARA 12 note 2 ante.

6 For the meaning of 'borough scheme' see PARA 370 note 4 ante.

7 Greater London Authority Act 1999 Sch 24 para 25(3)(b). As to the Greater London Authority see PARA 79 et seq ante. The functions of the Authority under Sch 24 (as amended) are exercisable by the Mayor of London: see PARA 335 ante. As to the Mayor of London see PARA 81 ante. As to the exercise of functions generally see PARA 164 et seq ante.

8 Ibid Sch 24 para 25(4)(a).

9 Ibid Sch 24 para 25(4)(b).



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**384. Licensing authority's four year programmes for its share of net proceeds of the scheme.**

As long as a licensing scheme<sup>1</sup> remains in force, the licensing authority<sup>2</sup> must, during every fourth financial year<sup>3</sup> after the financial year in which the scheme comes into force, prepare a written statement of its proposed general programme for applying the authority's share of the net proceeds<sup>4</sup> of the scheme during the next four financial years<sup>5</sup>. Any such statement must be submitted for approval to the Secretary of State<sup>6</sup>; and in the case of a borough scheme<sup>7</sup>, the Greater London Authority<sup>8</sup>. Any such statement must be submitted not less than six months before the end of the financial year during which the statement is required to be prepared<sup>9</sup>. In the case of a borough scheme, any such submission to the Secretary of State may only be made by the Authority acting on behalf of the licensing authority<sup>10</sup>, and after the giving by the Authority of the approval so required<sup>11</sup>. Any such statement so prepared and approved in the case of a licensing scheme prevails for all purposes over any conflicting provisions in the statement included in the scheme<sup>12</sup>.

Except with the consent of the Secretary of State in any particular case, none of the licensing authority's share of the net proceeds of a licensing scheme may be applied in any financial year beginning after the end of the opening four year period<sup>13</sup> unless and until such a statement having effect in relation to a period in which that year falls has been prepared and approved<sup>14</sup>.

1 For the meaning of 'licensing scheme' see PARA 367 note 5 ante.

2 For the meaning of 'licensing authority' see PARA 371 note 5 ante.

3 For the meaning of 'financial year' see PARA 131 note 21 ante.

4 For the meaning of 'net proceeds' see PARA 374 note 11 ante; and as to the meaning of 'share of the net proceeds' see PARA 383 note 3 ante.

5 Greater London Authority Act 1999 s 296(2), Sch 24 para 26(1).

6 Ibid Sch 24 para 26(2)(a). As to the Secretary of State see PARA 12 note 2 ante.

7 For the meaning of 'borough scheme' see PARA 370 note 4 ante.

8 Greater London Authority Act 1999 Sch 24 para 26(2)(b). As to the Greater London Authority see PARA 79 et seq ante.

9 Ibid Sch 24 para 26(3).

10 Ibid Sch 24 para 26(4)(a). For the meaning of 'licensing authority' see PARA 371 note 5 ante.

11 Ibid Sch 24 para 26(4)(b).

12 Ibid Sch 24 para 26(5). The statement is included in the scheme pursuant to Sch 24 para 25: see PARA 383 ante.

13 'The opening four year period', in relation to any licensing scheme, means the period which begins with the date on which the scheme comes into force and ends with the fourth financial year that commences on or after that date: ibid Sch 24 para 29(3).

14 Ibid Sch 24 para 29(1).

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### **385. Amendment, replacement and voluntary statements in relation to four year programmes.**

Where a statement in relation to a four year programme has been prepared and approved<sup>1</sup>, the authority<sup>2</sup> which prepared the statement may amend the statement, or replace it with another statement. Where a licensing scheme<sup>3</sup> is in force the licensing authority<sup>4</sup> or the Greater London Authority<sup>5</sup> may prepare a statement<sup>6</sup>, at any time before the beginning of the first financial year<sup>7</sup> for which a statement<sup>8</sup> is required to be prepared in respect of the scheme<sup>9</sup>. This power<sup>10</sup> is exercisable:

- 586 (1) in the case of a statement<sup>11</sup> in respect of a borough scheme<sup>12</sup>, during the period of six months beginning with the day on which a change of control of the London borough council concerned occurs<sup>13</sup>; or
- 587 (2) in any other case, during the period of six months beginning with the term of office of any person returned as the Mayor of London<sup>14</sup> at an ordinary election<sup>15</sup> or at an election to fill a vacancy in the office of Mayor<sup>16</sup>.

Where an authority proposes to amend or replace a statement which has been prepared and approved<sup>17</sup>, or to prepare a voluntary statement<sup>18</sup>, the amendment, replacement statement or voluntary statement must be submitted for approval (a) to the Secretary of State<sup>19</sup>; and (b) if the statement concerned or affected is one prepared in respect of a borough scheme by the licensing authority, to the Authority<sup>20</sup>. Where a statement which has been prepared and approved<sup>21</sup> is amended, the statement continues to be regarded<sup>22</sup> as a statement so prepared and approved, notwithstanding the amendment<sup>23</sup>.

A replacement statement or a voluntary statement must relate to the four financial years beginning with the financial year in which it takes effect (disregarding so much of that year as has expired before the statement takes effect)<sup>24</sup>. Where a voluntary statement or replacement statement prepared by an authority takes effect, the time at which any subsequent statement is required to be prepared by that authority<sup>25</sup> in respect of the licensing scheme in question is to be determined as if the financial year preceding that in which the replacement statement or voluntary statement takes effect had been a fourth financial year<sup>26</sup>.

1     le under the Greater London Authority Act 1999 s 296(2), Sch 24 para 26 (see PARA 384 ante) or Sch 24 para 28 (see PARA 386 post).

2     As to the authorities which may make and operate licensing schemes see PARA 367 ante.

3     For the meaning of 'licensing scheme' see PARA 367 note 5 ante.

4     For the meaning of 'licensing authority' see PARA 371 note 5 ante.

5     As to the Greater London Authority see PARA 79 et seq ante.

6     Where a licensing scheme is in force: (1) the licensing authority may prepare a statement such as is described in the Greater London Authority Act 1999 Sch 24 para 26(1) (see PARA 384 ante); and (2) if the licensing scheme is one to which Sch 24 para 27 (see PARA 386 ante) applies, the Authority may prepare a statement such as is described in Sch 24 para 28(2) (see PARA 386 post): Sch 24 para 30(2)(a), (b).

7     For the meaning of 'financial year' see PARA 131 note 21 ante.

8     Ie under the Greater London Authority Act 1999 Sch 24 para 26 (see PARA 384 ante) or, as the case may be, Sch 24 para 28 (see PARA 386 post).

9     Ibid Sch 24 para 30(1), (2).

10    Ie under ibid Sch 24 para 30(1)(b), (2).

11    Ie under ibid Sch 24 para 26: see PARA 384 ante.

12    For the meaning of 'borough scheme' see PARA 370 note 4 ante.

13    Greater London Authority Act 1999 Sch 24 para 30(4)(a). As to the London boroughs and their councils see PARAS 30, 35-39, 59 et seq ante. As to the treatment of the Common Council of the City of London as a London borough council see PARA 367 note 3 ante.

14    As to the Mayor of London see PARA 81 ante.

15    For the meaning of 'ordinary election' see PARA 84 note 9 ante.

16    Greater London Authority Act 1999 Sch 24 para 30(4)(b). An election to fill a vacancy in the office of Mayor is held under s 16: see PARA 127 ante.

17    Ie under ibid Sch 24 para 26 (see PARA 384 ante) or Sch 24 para 28 (see PARA 386 post).

18    For the purposes of ibid Sch 24 para 30:

98    (1)    a 'voluntary statement' is a statement prepared under Sch 24 para 30(2)(a) or (b);

99    (2)    a statement prepared under Sch 24 para 30(2)(a) is to be treated as a statement prepared under Sch 24 para 26 (see PARA 384 ante) and, if approved in accordance with the provisions of Sch 24 para 30, as approved under Sch 24 para 26; and

100   (3)    a statement prepared under Sch 24 para 30(2)(b) is to be treated as a statement prepared under Sch 24 para 28 (see PARA 386 post) and, if approved in accordance with the provisions of Sch 24 para 30, as approved under Sch 24 para 28,

and references to statements under Sch 24 para 26 or Sch 24 para 28 are to be construed accordingly: Sch 24 para 30(3).

19    As to the Secretary of State see PARA 12 note 2 ante.

20    Greater London Authority Act 1999 Sch 24 para 30(5), (6). Where head (b) in the text applies, any submission to the Secretary of State under head (a) in the text may only be made by the Authority acting on behalf of the licensing authority concerned, and after the giving by the Authority of the approval required by head (b) in the text: Sch 24 para 30(7).

21    Ie under ibid Sch 24 para 26 (see PARA 384 ante) or Sch 24 para 28 (see PARA 386 post).

22    Ie for the purposes of ibid Sch 24 (as amended).

23    Ibid Sch 24 para 30(8).

24    Ibid Sch 24 para 30(9). A replacement statement or voluntary statement prepared and approved under Sch 24 para 30 is to be taken for the purposes of Sch 24 (as amended) to be a statement prepared and approved under Sch 24 para 26 (see PARA 384 ante), if it was prepared in respect of a licensing scheme by the licensing authority, or under Sch 24 para 28 (see PARA 386 post), if it was prepared by the Authority: Sch 24 para 30(10).

25    Ie by virtue of ibid Sch 24 para 26 (see PARA 384 ante) or Sch 24 para 28 (see PARA 386 post).

26    Ibid Sch 24 para 30(11). The reference in the text to 'a fourth financial year' is a reference to a fourth financial year after the financial year in which a scheme has come into force under Sch 24 para 26(1) (see PARA 384 ante) or Sch 24 para 28(1) (see PARA 386 post).

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### **386. Greater London Authority's ten year plan for the redistributed portion.**

Where a licensing scheme<sup>1</sup> includes provision<sup>2</sup> for a portion of the net proceeds<sup>3</sup> of the scheme (the 'redistributed portion') to be paid by the licensing authority<sup>4</sup> to another body<sup>5</sup>, the Greater London Authority<sup>6</sup> must prepare and submit to the Secretary of State<sup>7</sup> a statement of the Authority's general plan for the application (whether by the Authority or any other body) of the redistributed portion during the opening ten year period<sup>8</sup>. An order containing a licensing scheme does not come into force unless and until any statement required by the above provision in the case of that scheme has been approved by the Secretary of State<sup>9</sup>.

As long as such a licensing scheme<sup>10</sup> remains in force, the Authority must, during every fourth financial year after the financial year in which the scheme comes into force, prepare a written statement of the Authority's proposed general programme for the application (whether by the Authority or any other body) of the redistributed portion of the net proceeds of the scheme during the next four financial years<sup>11</sup>. Any such statement must be submitted for approval to the Secretary of State not less than six months before the end of the financial year during which the statement is required to be prepared<sup>12</sup>. A statement so prepared and approved for any scheme prevails for all purposes over any conflicting provisions in the statement prepared and approved<sup>13</sup> for the purposes of the Authority's ten year plan for the redistributed portion<sup>14</sup>.

Except with the consent of the Secretary of State in any particular case, none of the redistributed portion of the net proceeds of a licensing scheme may be applied in any financial year beginning after the end of the opening four year period<sup>15</sup> unless and until such a statement having effect in relation to a period in which that year falls has been prepared and approved in relation to the scheme<sup>16</sup>.

1 For the meaning of 'licensing scheme' see PARA 367 note 5 ante.

2 Ie by virtue of the Greater London Authority Act 1999 s 296(2), Sch 24 para 24(1): see PARA 381 ante.

3 For the meaning of 'net proceeds' see PARA 374 note 11 ante.

4 For the meaning of 'licensing authority' see PARA 371 note 5 ante.

5 Greater London Authority Act 1999 Sch 24 para 27(1).

6 As to the Greater London Authority see PARA 79 et seq ante.

7 As to the Secretary of State see PARA 12 note 2 ante.

8 Greater London Authority Act 1999 Sch 24 para 27(2). 'The opening ten year period', in relation to any licensing scheme, means the period which begins with the date on which the scheme comes into force and ends with the tenth financial year that commences on or after that date: Sch 24 para 27(3). For the meaning of 'financial year' see PARA 131 note 21 ante. The functions of the Authority under Sch 24 (as amended) are exercisable by the Mayor of London: see PARA 335 ante. As to the Mayor of London see PARA 81 ante. As to the exercise of functions generally see PARA 164 et seq ante.

9 Ibid Sch 24 para 27(4).

10 Ie ibid Sch 24 para 27: see the text and notes 1-9 supra.

11 Ibid Sch 24 para 28(1), (2).

12 Ibid Sch 24 para 28(3).

13     Ie under ibid Sch 24 para 27: see the text and notes 1-9 supra.

14     Ibid Sch 24 para 28(4).

15     'The opening four year period', in relation to any licensing scheme, means the period which begins with the date on which the scheme comes into force and ends with the fourth financial year that commences on or after that date: ibid Sch 24 para 29(3).

16     Ibid Sch 24 para 29(2).

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### 387. Rights of entry.

Where a person duly authorised in writing by a licensing authority<sup>1</sup> has reason to believe that any premises are being used for the provision of workplace parking places<sup>2</sup>, he may at any reasonable time enter those premises for the purpose of<sup>3</sup>:

- 588 (1) ascertaining whether controlled vehicles<sup>4</sup> are parked at those premises without a licence<sup>5</sup> in respect of those premises<sup>6</sup>;
- 589 (2) ascertaining whether there are parked at those premises controlled vehicles in excess of the number permitted by a licence in respect of those premises<sup>7</sup>; or
- 590 (3) ascertaining whether there is or has been any contravention of the conditions of a licence in respect of those premises<sup>8</sup>.

A person duly authorised in writing by a licensing authority may at any reasonable time enter any premises for the purpose of issuing a penalty charge notice<sup>9</sup>. A person authorised to enter any premises must, if so required, produce evidence of his authority before so entering<sup>10</sup>.

Any person who intentionally obstructs a person acting in the exercise of these powers of entry is guilty of an offence<sup>11</sup>.

Where any land is damaged in the exercise of a right of entry<sup>12</sup> compensation in respect of that damage may be recovered by any person interested in the land from the licensing authority on whose behalf the entry was effected<sup>13</sup>.

1 For the meaning of 'licensing authority' see PARA 371 note 5 ante.

2 As to the provision of workplace parking places see PARA 368 ante.

3 Greater London Authority Act 1999 s 296(2), Sch 24 para 31(1).

4 As to the meaning of 'controlled vehicle' see PARA 369 ante.

5 For the meaning of 'licence' see PARA 372 note 4 ante.

6 Greater London Authority Act 1999 Sch 24 para 31(1)(a).

7 Ibid Sch 24 para 31(1)(b).

8 Ibid Sch 24 para 31(1)(c).

9 Ibid Sch 24 para 31(2). 'Penalty charge notice' means notice of a penalty charge: Sch 24 para 1(1). For the meaning of 'notice' see PARA 83 note 10 ante. As to penalty charges see PARA 378 ante.

10 Ibid Sch 24 para 31(3).

11 Ibid Sch 24 para 31(4) (amended by the Transport Act 2000 s 199, Sch 13 paras 19, 30(a)). A person guilty of such an offence is liable (1) on summary conviction to a fine not exceeding the statutory maximum; or (2) on conviction on indictment, to a fine: Greater London Authority Act 1999 Sch 24 para 31(4) (as so amended). The 'statutory maximum', with reference to a fine or penalty on summary conviction for an offence, is the prescribed sum within the meaning of the Magistrates' Courts Act 1980 s 32 (as amended): see the Interpretation Act 1978 s 5, Sch 1 (definition added by the Criminal Justice Act 1988 s 170(1), Sch 15 para 58); and SENTENCING AND DISPOSITION OF OFFENDERS vol 92 (2010) PARA 140.

12     le a right of entry conferred under the Greater London Authority Act 1999 Sch 24 para 31(1) or (2): see the text and notes 1-9 *supra*.

13     Ibid Sch 24 para 31(5). The provisions of the Town and Country Planning Act 1990 s 118 (determination of claims for compensation) (see TOWN AND COUNTRY PLANNING vol 46(2) (Reissue) PARA 931) apply in relation to compensation under the Greater London Authority Act 1999 Sch 24 para 31(5) as they apply in relation to compensation under the Town and Country Planning Act 1990 Pt IV (ss 107-118) (as amended) (see TOWN AND COUNTRY PLANNING vol 46(2) (Reissue) PARA 914 *et seq*): Greater London Authority Act 1999 Sch 24 para 31(6) (amended by the Transport Act 2000 Sch 13 paras 19, 30(b)).



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### **388. Evidence.**

The Lord Chancellor may by regulations<sup>1</sup> make provision for or in connection with permitting evidence of a fact relevant to proceedings for an offence in relation to workplace parking levy<sup>2</sup>, or proceedings in respect of a failure to comply with the provisions of a licensing scheme<sup>3</sup>, to be given by the production of<sup>4</sup>: (1) a record produced by a prescribed<sup>5</sup> device<sup>6</sup>; and (2) a certificate<sup>7</sup> (whether in the same or another document) as to the circumstances in which the record was produced signed by a prescribed person<sup>8</sup>.

1 For the meaning of 'regulations' see PARA 368 note 11 ante. At the date at which this volume states the law no such regulations had been made.

2 ie an offence under the Greater London Authority Act 1999 s 296(2), Sch 24 (as amended).

3 For the meaning of 'licensing scheme' see PARA 367 note 5 ante.

4 Greater London Authority Act 1999 Sch 24 para 32 (amended by the Transport Act 2000 s 199, Sch 13 paras 19, 31).

5 'Prescribed' means specified in, or determined in accordance with, regulations: Greater London Authority Act 1999 s 296(2), Sch 24 para 1(1).

6 Ibid Sch 24 para 32(a).

7 As to the meaning of 'certificate' see PARA 111 note 4 ante.

8 Greater London Authority Act 1999 Sch 24 para 32(b).

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**389. Determination of disputes and appeals.**

The Lord Chancellor may by regulations<sup>1</sup> make provision for or in connection with<sup>2</sup>:

- 591 (1) appeals against decisions relating to licences<sup>3</sup> or in the case of a failure to make such a decision<sup>4</sup>;
- 592 (2) the determination of disputes<sup>5</sup>;
- 593 (3) appeals against determinations of disputes or in the case of a failure to make such a determination<sup>6</sup>;
- 594 (4) the appointment of persons to hear appeals<sup>7</sup>.

<sup>1</sup> For the meaning of 'regulations' see PARA 368 note 11 ante. At the date at which this volume states the law no such regulations had been made.

<sup>2</sup> Greater London Authority Act 1999 s 296(2), Sch 24 para 20 (amended by the Transport Act 2000 s 199, Sch 13 paras 19, 28).

<sup>3</sup> For the meaning of 'licence' see PARA 372 note 4 ante.

<sup>4</sup> Greater London Authority Act 1999 Sch 24 para 20(a).

<sup>5</sup> Ibid Sch 24 para 20(b).

<sup>6</sup> Ibid Sch 24 para 20(c).

<sup>7</sup> Ibid Sch 24 para 20(d).

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### **390. Expenses.**

The Greater London Authority<sup>1</sup>, Transport for London<sup>2</sup> or a London borough council<sup>3</sup> may<sup>4</sup>:

595 (1) incur expenditure in or in connection with the establishment or operation of a licensing scheme<sup>5</sup>; or

596 (2) enter into arrangements (including arrangements for forming or participating in companies<sup>6</sup>) with any body or person in respect of the operation of a licensing scheme or relating to the installation or operation of any equipment used for or in connection with the operation of a licensing scheme<sup>7</sup>.

1 As to the Greater London Authority see PARA 79 et seq ante.

2 As to Transport for London see PARAS 269-321 ante.

3 As to the London boroughs and their councils see PARAS 30, 35-39, 59 et seq ante. As to the treatment of the Common Council of the City of London as a London borough council see PARA 367 note 3 ante.

4 Greater London Authority Act 1999 s 296(2), Sch 24 para 33.

5 Ibid Sch 24 para 33(a). For the meaning of 'licensing scheme' see PARA 367 note 5 ante.

6 For the meaning of 'company' see PARA 17 note 19 ante.

7 Greater London Authority Act 1999 Sch 24 para 33(b).

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### **391. Directions by the Greater London Authority.**

The Greater London Authority<sup>1</sup> may give to any London borough council<sup>2</sup> general or specific directions<sup>3</sup> requiring the council to exercise, in such manner as may be specified in the directions, any of the council's powers in relation to workplace parking levy<sup>4</sup>, or for purposes connected with a licensing scheme<sup>5</sup> made by that council or any other authority<sup>6</sup>, any of the council's powers under any other enactment relating to the management or control of traffic<sup>7</sup>. A London borough council must comply with any directions given to it by the Greater London Authority<sup>8</sup>.

1 As to the Greater London Authority see PARA 79 et seq ante.

2 As to the London boroughs and their councils see PARAS 30, 35-39, 59 et seq ante. As to the treatment of the Common Council of the City of London as a London borough council see PARA 367 note 3 ante.

3 As to the giving of directions see PARA 13 ante.

4 Ie any of the council's powers under the Greater London Authority Act 1999 s 296(2), Sch 24 (as amended).

5 For the meaning of 'licensing scheme' see PARA 367 note 5 ante.

6 As to the authorities which may make and operate licensing schemes see PARA 367 ante.

7 Greater London Authority Act 1999 Sch 24 para 34(1). The functions of the Authority under Sch 24 (as amended) are exercisable by the Mayor of London: see PARA 335 ante. As to the Mayor of London see PARA 81 ante. As to the exercise of functions generally see PARA 164 et seq ante.

8 Ibid Sch 24 para 34(2).

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### **392. Guidance by the Greater London Authority.**

The Greater London Authority<sup>1</sup> may issue guidance to Transport for London<sup>2</sup> or any London borough council<sup>3</sup> in relation to the discharge of their functions in relation to workplace parking levy<sup>4</sup>. Transport for London or a London borough council in exercising any such function must have regard to any guidance<sup>5</sup> issued by the Authority<sup>6</sup>. Any such guidance must be published in such manner as the Authority considers appropriate, and may be revoked or varied at any time<sup>7</sup>.

1 As to the Greater London Authority see PARA 79 et seq ante.

2 As to Transport for London see PARAS 269-321 ante.

3 As to the London boroughs and their councils see PARAS 30, 35-39, 59 et seq ante. As to the treatment of the Common Council of the City of London as a London borough council see PARA 367 note 3 ante.

4 Greater London Authority Act 1999 s 296(2), Sch 24 para 35(1). The functions referred to in the text are those under Sch 24 (as amended). The functions of the Authority under Sch 24 (as amended) are exercisable by the Mayor of London: see PARA 335 ante. As to the Mayor of London see PARA 81 ante. As to the exercise of functions generally see PARA 164 et seq ante.

5 For the meaning of 'guidance' see PARA 96 note 2 ante.

6 Greater London Authority Act 1999 Sch 24 para 35(2).

7 Ibid Sch 24 para 35(3) (added by the Transport Act 2000 s 199, Sch 13 paras 19, 32).

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### **393. Information.**

Information obtained by: (1) any Minister of the Crown<sup>1</sup> or government department<sup>2</sup>; or (2) any local authority<sup>3</sup> or other statutory body<sup>4</sup>, may be disclosed to a licensing authority<sup>5</sup> for or in connection with the exercise of any of its functions with respect to a licensing scheme<sup>6</sup>. Information obtained by a licensing authority for or in connection with any of its functions other than its functions with respect to a licensing scheme may be used by the authority for or in connection with the exercise of any of its functions with respect to a licensing scheme<sup>7</sup>.

Any information: (a) which has been or could be disclosed to a licensing authority<sup>8</sup> for or in connection with the exercise of any of its functions with respect to a licensing scheme<sup>9</sup>; or (b) which has been or could be used by an authority<sup>10</sup> for or in connection with the exercise of any of those functions<sup>11</sup>, may be disclosed to any person with whom the authority has entered into arrangements for the operation of a licensing scheme or relating to the installation of equipment<sup>12</sup>. The information disclosed to such a person may be disclosed to any other person for or in connection with the licensing scheme but may not be used otherwise than for or in connection with the licensing scheme<sup>13</sup>.

1 As to the meaning of 'Minister of the Crown' see PARA 12 note 1 ante.

2 Greater London Authority Act 1999 s 296(2), Sch 24 para 35A(1)(a) (Sch 24 para 35A added by the Transport Act 2000 s 199, Sch 13 paras 19, 33).

3 For the meaning of 'local authority' see PARA 17 note 9 ante.

4 Greater London Authority Act 1999 Sch 24 para 35A(1)(b) (as added: see note 2 supra).

5 For the meaning of 'licensing authority' see PARA 371 note 5 ante.

6 Greater London Authority Act 1999 Sch 24 para 35A(1) (as added: see note 2 supra). For the meaning of 'licensing scheme' see PARA 367 note 5 ante.

7 Ibid Sch 24 para 35A(2) (as added: see note 2 supra).

8 Ie under ibid Sch 24 para 35A(1) (as added): see the text and notes 1-6 supra.

9 Ibid Sch 24 para 35A(3)(a) (as added: see note 2 supra).

10 Ie by virtue of ibid Sch 24 para 35A(2) (as added): see the text to note 7 supra.

11 Ibid Sch 24 para 35A(3)(b) (as added: see note 2 supra).

12 Ibid Sch 24 para 35A(3) (as added: see note 2 supra). The arrangements referred to in the text are those under Sch 24 para 33(b): see PARA 390 ante.

13 Ibid Sch 24 para 35A(4) (as added: see note 2 supra).

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### **394. Crown application.**

The statutory provisions relating to the workplace parking levy<sup>1</sup> and regulations<sup>2</sup> and licensing schemes<sup>3</sup> made in relation thereto bind the Crown<sup>4</sup>. No contravention by the Crown of any such provisions or of any regulations or licensing scheme made in relation thereto make the Crown criminally liable, but the High Court may, on the application of a licensing authority<sup>5</sup>, declare unlawful any act or omission of the Crown which constitutes such a contravention<sup>6</sup>. However, such provisions and regulations and licensing schemes made in relation thereto apply to persons in the public service of the Crown as they apply to other persons<sup>7</sup>, but power of entry conferred by such provisions or regulations made in relation thereto is exercisable in relation to any premises held or used by or on behalf of the Crown<sup>8</sup>. Nothing in the provisions described above is to be taken as in any way affecting Her Majesty in her private capacity<sup>9</sup>.

1    le the provisions of the Greater London Authority Act 1999 s 296(2), Sch 24 (as amended).

2    For the meaning of 'regulations' see PARA 368 note 11 ante.

3    For the meaning of 'licensing scheme' see PARA 367 note 5 ante.

4    Greater London Authority Act 1999 Sch 24 para 37(1).

5    For the meaning of 'licensing authority' see PARA 371 note 5 ante.

6    Greater London Authority Act 1999 Sch 24 para 37(2).

7    Ibid Sch 24 para 37(3).

8    Ibid Sch 24 para 37(4).

9    Ibid Sch 24 para 37(5). Schedule 24 para 37(5) is to be construed as if the Crown Proceedings Act 1947 s 38(3) (interpretation of references in the Crown Proceedings Act 1947 to Her Majesty in her private capacity) (see CROWN PROCEEDINGS AND CROWN PRACTICE) were contained in the Greater London Authority Act 1999: Sch 24 para 37(5).

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### **395. Parking in the Palace of Westminster.**

The Palace of Westminster is to be treated as premises occupied by the Corporate Officer of the House of Lords and the Corporate Officer of the House of Commons acting jointly<sup>1</sup>. Every motor vehicle<sup>2</sup> for which a parking place is provided at the Palace of Westminster is to be taken to be a motor vehicle used in relation to workplace parking<sup>3</sup> if it is a vehicle used<sup>4</sup>:

- 597 (1) by a Member or officer of either House of Parliament<sup>5</sup>;
- 598 (2) by a person employed<sup>6</sup> as a member of the House of Lords staff<sup>7</sup>;
- 599 (3) by a person employed as a member of the House of Commons staff<sup>8</sup>;
- 600 (4) by a person employed by a member of either House of Parliament<sup>9</sup>; or
- 601 (5) by, or by an employee<sup>10</sup> of, any person supplying or seeking to supply goods or services to: (a) the House of Lords; (b) the House of Commons; (c) any member or officer of either House of Parliament, or any agent or sub-contractor of such a person<sup>11</sup>.

No offence in relation to workplace parking levy<sup>12</sup> is capable of being committed in relation to parking in the Palace of Westminster<sup>13</sup>. No right of entry<sup>14</sup> is exercisable in relation to the Palace of Westminster<sup>15</sup> and no penalty charge notice<sup>16</sup> may be issued in respect of parking there<sup>17</sup>.

1 Greater London Authority Act 1999 s 296(2), Sch 24 para 36(1), (2). As to the Palace of Westminster see PARLIAMENT vol 78 (2010) PARAS 995-996. As to the Corporate Officer of the House of Lords and the Corporate Officer of the House of Commons see PARLIAMENT vol 78 (2010) PARAS 855, 943.

2 For the meaning of 'motor vehicle' see PARA 336 note 1 ante; definition applied by ibid Sch 24 para 1(1).

3 Ie a motor vehicle used as mentioned in ibid Sch 24 para 3(1) (as amended): see PARA 368 ante.

4 Ibid Sch 24 para 36(3).

5 Ibid Sch 24 para 36(3)(a).

6 For the meaning of 'employed' see PARA 368 note 5 ante.

7 Greater London Authority Act 1999 Sch 24 para 36(3)(b). 'Member of the House of Lords staff' means any person who is employed under a contract of employment made with the Corporate Officer of the House of Lords: Sch 24 para 36(7). For the meaning of 'contract of employment' see PARA 368 note 5 ante.

8 Ibid Sch 24 para 36(3)(c). 'Member of the House of Commons staff' means any person who was appointed by the House of Commons Commission or who is a member of the Speaker's personal staff: Sch 24 para 36(7). As to the House of Commons Commission see PARLIAMENT vol 78 (2010) PARA 946. As to the Speaker see PARLIAMENT vol 78 (2010) PARA 931 et seq.

9 Ibid Sch 24 para 36(3)(d).

10 For the meaning of 'employee' see PARA 368 note 5 ante.

11 Greater London Authority Act 1999 Sch 24 para 36(3)(e).

12 Ie no offence under ibid Sch 24 (as amended) or regulations made under Sch 24 (as amended). For the meaning of 'regulations' see PARA 368 note 11 ante.

13 Ibid Sch 24 para 36(4).



- 14    le conferred under or by virtue of *ibid* Sch 24 (as amended).
- 15    *Ibid* Sch 24 para 36(5).
- 16    For the meaning of 'penalty charge notice' see *PARA 387* note 9 *ante*.
- 17    Greater London Authority Act 1999 Sch 24 para 36(6).

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## **(6) TRAVEL CONCESSIONS**

### **(i) Arrangements for the Grant of Travel Concessions**

#### **396. Travel concessions on journeys in and around Greater London.**

Any local authority<sup>1</sup>, or any two or more local authorities acting jointly, may enter into arrangements with Transport for London<sup>2</sup> under which:

- 602 (1) Transport for London grants, or arranges with some other person for that other person to grant, such travel concessions<sup>3</sup> as may be provided for by the arrangements to such of the persons eligible to receive them in accordance with heads (i) to (ix) below as specified in the arrangements<sup>4</sup>; and
- 603 (2) that local authority reimburses (or, as the case may be, those local authorities in such proportions respectively as they may agree amongst themselves reimburse) the cost incurred in granting those concessions<sup>5</sup>.

Any London authority, or any two or more London authorities acting jointly, may enter into arrangements with any independent transport service operator<sup>6</sup> or with the Strategic Rail Authority under which<sup>7</sup>:

- 604 (a) that operator or, as the case may be, the Strategic Rail Authority grants such travel concessions as may be provided for by the arrangements to such of the persons eligible to receive them in accordance with heads (i) to (ix) below as specified in the arrangements<sup>8</sup>; and
- 605 (b) that authority reimburses (or, as the case may be, those authorities in such proportions respectively as they may agree among themselves reimburse) the cost incurred in granting those concessions<sup>9</sup>.

Any such arrangements entered into by a local authority<sup>10</sup> may include provision for the performance of functions in connection with the travel concessions in question by the local authority or local authorities concerned<sup>11</sup>.

The concessions that may be provided for by any such arrangements<sup>12</sup> are concessions on journeys between places in Greater London<sup>13</sup>, between such places and places outside but in the vicinity of Greater London<sup>14</sup>, or between places outside but in the vicinity of Greater London<sup>15</sup>. The persons eligible to receive travel concessions under any such arrangements<sup>16</sup> by an authority are persons appearing to the authority to be persons who<sup>17</sup>:

- 606 (i) have attained pensionable age<sup>18</sup>;
- 607 (ii) are blind<sup>19</sup>;
- 608 (iii) are partially sighted<sup>20</sup>;
- 609 (iv) are profoundly or severely deaf<sup>21</sup>;
- 610 (v) are without speech<sup>22</sup>;
- 611 (vi) have a disability, or have suffered an injury, which has a substantial and long-term adverse effect on their ability to walk<sup>23</sup>;
- 612 (vii) do not have arms or have long-term loss of the use of both arms<sup>24</sup>;

- 613 (viii) who have a learning disability, that is, a state of arrested or incomplete development of mind which includes significant impairment of intelligence and social functioning<sup>25</sup>; or
- 614 (ix) if they applied for the grant of a licence to drive a motor vehicle under Part III of the Road Traffic Act 1988<sup>26</sup>, would have their applications refused pursuant to the provision<sup>27</sup> relating to physical fitness otherwise than on the ground of persistent misuse of drugs or alcohol<sup>28</sup>.

The Secretary of State<sup>29</sup> may issue guidance to local authorities to which they must have regard in determining whether a person falls within heads (ii) to (ix) above<sup>30</sup>.

1 For these purposes, 'local authority' means the council of a county or district and any London authority: Greater London Authority Act 1999 s 240(8). 'London authority' means any London borough council and the Common Council of the City of London: s 240(8). As to the London boroughs and their councils see PARAS 30, 35-39, 59 et seq ante. As to the Common Council of the City of London see PARA 51 et seq ante.

2 As to Transport for London see PARAS 269-321 ante.

3 For these purposes, 'travel concession' means the reduction or waiver of a fare or charge either absolutely or subject to terms, limitations or conditions: Greater London Authority Act 1999 s 240(8). Section 240 (as amended) is modified by the London Regional Transport (Transitional Modifications) Order 2000, SI 2000/1504, for the duration of the transitional period (as defined in art 2), to provide for arrangements for the provision of concessionary fares to be entered into by London Regional Transport as well as by Transport for London: see art 5. As to the transition from London Regional Transport to Transport for London see PARA 271 et seq ante.

4 Greater London Authority Act 1999 s 240(1)(a) (amended by the Transport Act 2000 s 151(1)-(3)).

5 Greater London Authority Act 1999 s 240(1)(b).

6 For these purposes, 'independent transport service operator' means any person, other than: (1) Transport for London or any of its subsidiaries (ibid s 240(7)(a)); (2) the Strategic Rail Authority (s 240(7)(b) (amended by the Transport Act 2000 s 215, Sch 16 paras 58, 67(1), (2))); or (3) any person providing public passenger transport services in pursuance of an agreement entered into by Transport for London by virtue of the Greater London Authority Act 1999 s 156(2) or s 156(3)(a) (see PARA 287 ante) or in pursuance of a transport subsidiary's agreement (s 240(7)(c)), operating:

101 (a) a public service vehicle undertaking (s 240(6)(a));

102 (b) a system using guided transport (s 240(6)(b));

103 (c) a railway (s 240(6)(c));

104 (d) a tramway (s 240(6)(d));

105 (e) a trolley vehicle system (s 240(6)(e)); or

106 (f) an undertaking providing public passenger transport services on the River Thames or a tributary of the River Thames between places in Greater London or between places in Greater London and places outside Greater London (s 240(6)(f)).

As to the Strategic Rail Authority see RAILWAYS, INLAND WATERWAYS AND CROSS-COUNTRY PIPELINES vol 39(1A) (Reissue) PARA 46 et seq. For the purposes of Pt IV Ch VIII (ss 240-244) (as amended), a reference to an agreement entered into by Transport for London under s 156(2) or s 156(3) includes a reference to an agreement which was entered into by London Regional Transport under the London Regional Transport Act 1984 s 3(2) (prospectively repealed) or s 3(2A) (as added; prospectively repealed) (see PARA 287 ante), and which by virtue of the Greater London Authority Act 1999 s 300 (see PARA 275 ante) or s 415 (see PARA 27 ante) has effect as if made by Transport for London: s 240(9). For the meaning of 'transport subsidiary's agreement' see PARA 288 note 2 ante. For the purposes of heads (a)-(e) supra, 'public service vehicle' has the same meaning as in the Public Passenger Vehicles Act 1981 s 1 (as amended) (see ROAD TRAFFIC vol 40(3) (2007 Reissue) PARA 1136); and 'guided transport', 'railway', 'tramway' and 'trolley vehicle system' have the same meanings as in the Transport and Works Act 1992 s 67(1) (see RAILWAYS, INLAND WATERWAYS AND CROSS-COUNTRY PIPELINES vol 39(1A) (Reissue) PARA 302); Greater London Authority Act 1999 s 240(6). As to Greater London see PARA 29 ante.

7 Ibid s 240(2) (amended by the Transport Act 2000 Sch 16 paras 58, 67(1), (2)).

8 Greater London Authority Act 1999 s 240(2)(a) (amended by the Transport Act 2000 s 151(1)-(3), Sch 16 paras 58, 67(1), (2)).

9 Greater London Authority Act 1999 s 240(2)(b).

10 *Ie* under *ibid* s 240(1), (2) (as amended): see the text to notes 1-9 *supra*.

11 *Ibid* s 240(4).

12 *Ie* under *ibid* s 240(1), (2) (as amended): see the text to notes 1-9 *supra*.

13 *Ibid* s 240(3)(a).

14 *Ibid* s 240(3)(b).

15 *Ibid* s 240(3)(c).

16 *Ie* made under *ibid* s 240(1), (2) (as amended): see the text to notes 1-9 *supra*.

17 *Ibid* s 240(5) (amended by the Transport Act 2000 s 151(1),(2), (4)). A reference to a category of eligible London residents is a reference to a category specified in any one of heads (i)-(ix) in the text: Greater London Authority Act 1999 s 242(7) (amended by the Transport Act 2000 s 151(1), (7), (11)). For these purposes, 'eligible London residents' means persons resident in Greater London who are eligible in accordance with the Greater London Authority Act 1999 s 240(5) (as amended) to receive travel concessions under arrangements under s 240(1) (as amended): s 241(4).

18 *Ibid* s 240(5)(a). For these purposes, 'pensionable age' has the same meaning as in the rules in the Pensions Act 1995 s 126, Sch 4 para 1 (see SOCIAL SECURITY AND PENSIONS vol 44(2) (Reissue) PARA 562): Greater London Authority Act 1999 s 240(5)(a).

19 *Ibid* s 240(5)(b) (s 240(5)(b), (c) substituted by the Transport Act 2000 s 151(1),(2), (4)).

20 Greater London Authority Act 1999 s 240(5)(c) (as substituted: see note 19 *supra*).

21 *Ibid* s 240(5)(d) (s 240(5)(d)-(i) added by the Transport Act 2000 s 151(1),(2), (4)).

22 Greater London Authority Act 1999 s 240(5)(e) (as added: see note 21 *supra*).

23 *Ibid* s 240(5)(f) (as added: see note 21 *supra*).

24 *Ibid* s 240(5)(g) (as added: see note 21 *supra*).

25 *Ibid* s 240(5)(h) (as added: see note 21 *supra*).

26 *Ie* the Road Traffic Act 1988 Pt III (ss 87-109) (as amended; prospectively further amended): see ROAD TRAFFIC vol 40(1) (2007 Reissue) PARA 442 *et seq*.

27 *Ie* *ibid* s 92 (as amended): see ROAD TRAFFIC vol 40(1) (2007 Reissue) PARA 455.

28 Greater London Authority Act 1999 s 240(5)(i) (as added: see note 21 *supra*).

29 As to the Secretary of State see PARA 12 note 2 *ante*.

30 Greater London Authority Act 1999 s 240(5A) (s 240(5A), (5B) added by the Transport Act 2000 s 151(1), (2), (5)). Before issuing any such guidance, the Secretary of State must consult the Disabled Persons Transport Advisory Committee, associations representative of local authorities, and such other persons as he thinks fit: Greater London Authority Act 1999 s 240(5B) (as so added). As to the Disabled Persons Transport Advisory Committee see ROAD TRAFFIC vol 40(1) (2007 Reissue) PARA 259.

## UPDATE

### 396 Travel concessions on journeys in and around Greater London

NOTE 3--SI 2000/1504 revoked: SI 2003/1615.

TEXT AND NOTES 6-9--Greater London Authority Act 1999 s 240(2), (7) amended:  
Railways Act 2005 Sch 12 para 14(6).

TEXT AND NOTES 17-30--Greater London Authority Act 1999 s 240(5) further amended, s  
240(5A) amended and s 240(5C) added: Concessionary Bus Travel Act 2007 s 4.

NOTE 17--Greater London Authority Act 1999 s 242(7) further amended: 2007 Act s  
6(4).

TEXT AND NOTE 18--Head (i) now persons who have attained the age of 60 years: Greater  
London Authority Act 1999 s 250(5)(a) (substituted by the Travel Concessions  
(Eligibility) Act 2002 s 1(2)).

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### **397. Requirements as to scope of arrangements for travel concessions.**

Arrangements<sup>1</sup> for travel concessions<sup>2</sup> for London residents meet the requirements as to scope if they provide for the:

- 615 (1) grant of travel concessions to all eligible London residents<sup>3</sup> on journeys<sup>4</sup> for which concessions may be made<sup>5</sup>; and
- 616 (2) travel concessions granted to them to include<sup>6</sup> a half-price concession<sup>7</sup> for each journey on the London bus network which begins (a) at any time on a Saturday or Sunday or on any day which is a bank holiday<sup>8</sup> in England and Wales<sup>9</sup>; or (b) in the period from midnight to 4.30 am, or the period from 9.30 am to midnight, on any other day<sup>10</sup>.

Head (1) above does not preclude the imposition of terms, limitations or conditions with respect to the particular journeys<sup>11</sup> on which travel concessions are available<sup>12</sup>. Such terms, limitations or conditions may make different provision for different categories of eligible London residents<sup>13</sup>.

1    le under the Greater London Authority Act 1999 s 240(1) (as amended): see PARA 396 ante.

2    For the meaning of 'travel concession' see PARA 396 note 3 ante.

3    For the meaning of 'eligible London residents' see PARA 396 note 17 ante.

4    le journeys of a description falling within the Greater London Authority Act 1999 s 240(3) (see PARA 396 ante), on the London Local Transport Network: see s 242(2) (amended by the Transport Act 2000 s 151(1), (7), (9)). The London Local Transport Network consists of:

- 107 (1) bus services which together make up the London bus network within the meaning of the Greater London Authority Act 1999 s 181 (see ROAD TRAFFIC vol 40(3) (2007 Reissue) PARA 1233) (s 242(3)(a));
- 108 (2) services using a system of guided transport which are provided by Transport for London or under an agreement entered into by Transport for London under s 156(2) or s 156(3)(a) (see PARA 287 ante) or under a transport subsidiary's agreement (s 242(3)(b));
- 109 (3) railway services which are so provided (s 242(3)(c));
- 110 (4) tramway services which are so provided (s 242(3)(d)); and
- 111 (5) services on the River Thames or a tributary of the River Thames which are so provided (s 242(3)(e)).

For these purposes, 'guided transport', 'railway' and 'tramway' have the same meanings as in the Transport and Works Act 1992 s 67(1) (see RAILWAYS, INLAND WATERWAYS AND CROSS-COUNTRY PIPELINES vol 39(1A) (Reissue) PARA 302): Greater London Authority Act 1999 ss 240(6), 242(4). As to references to agreements entered into by Transport for London under s 156(2) or s 156(3) see PARA 287 ante. For the meaning of 'transport subsidiary's agreement' see s 169; and PARA 288 note 2 ante. For the meaning of a 'category of eligible London residents' see PARA 396 note 17 ante. As to Transport for London see PARAS 269-321 ante.

Section 242 (as amended) is modified by the London Regional Transport (Transitional Modifications) Order 2000, SI 2000/1504, for the duration of the transitional period (as defined in art 2), to include railway services provided by London Regional Transport among those specified in the Greater London Authority Act 1999 s 242(3): see the London Regional Transport (Transitional Modifications) Order 2000, SI 2000/1504, art 7. As to the transition from London Regional Transport to Transport for London see PARA 271 et seq ante.

5 Greater London Authority Act 1999 s 242(1)(a) (numbered as such by the Transport Act 2000 s 151(1), (7), (8)).

6 Greater London Authority Act 1999 s 242(1)(b) (added by the Transport Act 2000 s 151(1), (7), (8)).

7 For these purposes, 'half-price concession', in relation to a journey, means the reduction of the fare for the journey to not more than one-half of that applicable to an adult who is not entitled to any reduction: Greater London Authority Act 1999 s 242(9) (s 242(8)-(10) added by the Transport Act 2000 s 151(1), (7), (12)).

8 le under the Banking and Financial Dealings Act 1971: see TIME vol 97 (2010) PARA 321.

9 Greater London Authority Act 1999 s 242(8)(a) (as added: see note 7 supra). No charge may be made for the issue to an eligible London resident of a travel concession permit relating to the travel concession specified in s 242(8) (as added): s 243(6) (added by the Transport Act 2000 s 151(1), (13)).

The Secretary of State may by order amend the Greater London Authority Act 1999 s 242 (as amended) for or in connection with securing that s 242(8) (as added) provides for the reduction of fares to less than one-half of those applicable to adults who are not entitled to any reduction or for waiver of fares: s 242(10) (as so added). As to the Secretary of State see PARA 12 note 2 ante.

10 Ibid s 242(8)(b) (as added: see note 7 supra). See note 9 supra.

11 le falling within ibid s 242(2) (as amended): see note 4 supra.

12 Ibid s 242(5) (amended by the Transport Act 2000 s 151(1), (7), (10)).

13 Greater London Authority Act 1999 s 242(6).

## UPDATE

### 397 Requirements as to scope of arrangements for travel concessions

TEXT AND NOTES--Greater London Authority Act 1999 s 242 further amended and repealed in part: Concessionary Bus Travel Act 2007 s 6, Sch 3.

NOTE 4--SI 2000/1504 revoked: SI 2003/1615.

TEXT AND NOTE 7--For 'half-price concession' read 'waiver of the fare': 1999 Act s 242(8) (amended by the Travel Concessions (Extension of Entitlement) (England) Order 2005, SI 2005/3224). 1999 Act s 242(9) repealed: SI 2005/3224.

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/4. TRANSPORT IN LONDON/(6) TRAVEL CONCESSIONS/(i) Arrangements for the Grant of Travel Concessions/398. Requirements as to uniformity of arrangements for travel concessions.

### **398. Requirements as to uniformity of arrangements for travel concessions.**

Arrangements<sup>1</sup> for travel concessions<sup>2</sup> for London residents meet the requirements as to uniformity if they make:

- 617 (1) the same provision, for all eligible London residents<sup>3</sup> of the same category<sup>4</sup>, with respect to the benefit of any travel concession granted to those residents under the arrangements and the periods during which it is available<sup>5</sup>;
- 618 (2) the enjoyment of the benefit of any travel concession<sup>6</sup> granted under the arrangements conditional on the production, by any person seeking to travel under that concession, of a travel concession permit<sup>7</sup> issued to him in accordance with the arrangements<sup>8</sup>; and
- 619 (3) the same provision with respect to the period of validity of all travel concession permits issued in accordance with the arrangements to eligible London residents of the same category<sup>9</sup>,

whether or not, in any other respects, the arrangements make different provision for different cases to which they apply<sup>10</sup>. For the requirements as to uniformity to be met it is sufficient that those requirements are met in relation to each description of services<sup>11</sup> comprising the London Local Transport Network<sup>12</sup> individually<sup>13</sup>.

1 le under the Greater London Authority Act 1999 s 240(1) (as amended): see PARA 396 ante.

2 For the meaning of 'travel concession' see PARA 396 note 3 ante.

3 For the meaning of 'eligible London residents' see PARA 396 note 17 ante.

4 As to references to a 'category of eligible London residents' see PARA 396 note 17 ante.

5 Greater London Authority Act 1999 s 243(1)(a).

6 References in *ibid* s 243(1) to the benefit of a travel concession are references to the waiver or reduction of any fare or charge to which the arrangements in question apply, as distinct from any terms, limitations or conditions applicable to that waiver or reduction in accordance with the arrangements: s 243(2).

7 For these purposes, 'travel concession permit' means, in relation to a travel concession granted under or by virtue of *ibid* Pt IV Ch VIII (ss 240-244) (as amended), a document in any form indicating that the person to whom it is issued is a person entitled in accordance with the provisions of Pt IV Ch VIII (as amended) to receive the concession in question: s 243(5).

8 *Ibid* s 243(1)(b).

9 *Ibid* s 243(1)(c).

10 *Ibid* s 243(1).

11 The reference to a description of services is a reference to the descriptions mentioned in *ibid* s 242(3)(a)-(e) (see PARA 397 ante): s 243(4).

12 For the meaning of 'London local Transport Network' see PARA 397 note 4 ante.

13 Greater London Authority Act 1999 s 243(3).



**UPDATE**

**398 Requirements as to uniformity of arrangements for travel concessions**

TEXT AND NOTES--Greater London Authority Act 1999 s 243 amended and repealed in part: Concessionary Bus Travel Act 2007 s 7, Sch 3.

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/4. TRANSPORT IN LONDON/(6) TRAVEL CONCESSIONS/(i) Arrangements for the Grant of Travel Concessions/399. Joint arrangements between London authorities.

### **399. Joint arrangements between London authorities.**

If all the London authorities<sup>1</sup> enter into arrangements<sup>2</sup> for the joint discharge of their functions in relation to travel concessions<sup>3</sup> in and around Greater London<sup>4</sup> and the arrangements so provide<sup>5</sup>, then the arrangements have effect for such period as may be specified in the arrangements or until otherwise terminated by the unanimous decision of the London authorities<sup>6</sup>. The arrangements must provide for the function to be discharged only by a joint committee<sup>7</sup> which must consist of one member of each London authority<sup>8</sup>. Decisions of the joint committee must be unanimous decisions of those present and voting<sup>9</sup>. This is subject to a resolution of the joint committee, passed unanimously by those present and voting, that decisions of a kind specified in the resolution<sup>10</sup>, or decisions generally<sup>11</sup>, may be made by such majority of those present and voting as may be specified in the resolution<sup>12</sup>. The specified majority must be not less than two-thirds of the members of the joint committee<sup>13</sup>.

1 For the meaning of 'London authority' see PARA 396 note 1 ante.

2 Ie under the Local Government Act 1972 s 101(5); see LOCAL GOVERNMENT vol 69 (2009) PARA 380.

3 For the meaning of 'travel concession' see PARA 396 note 3 ante.

4 Ie under the Greater London Authority Act 1999 s 240(1), (2) (as amended) (see PARA 396 ante). As to Greater London see PARA 29 ante.

5 Ibid s 244(1).

6 Ibid s 244(2).

7 Ibid s 244(3). The text refers to a joint committee under the Local Government Act 1972 s 101(5)(a) (see LOCAL GOVERNMENT vol 69 (2009) PARA 380). In consequence of the Greater London Authority Act 1999 s 244(1)-(7), the Local Government Act 1972 s 102 (as amended) (appointment of committees: see LOCAL GOVERNMENT vol 69 (2009) PARA 371) has effect in relation to the joint committee subject to the Greater London Authority Act 1999 s 244(1)-(7), and the Local Government Act 1972 Sch 12 para 39(1) (questions to be decided by simple majority), as applied to a joint committee by Sch 12 para 44(1), does not have effect in relation to the joint committee: Greater London Authority Act 1999 s 244(8). See further LOCAL GOVERNMENT vol 69 (2009) PARA 623.

8 Ibid s 244(4).

9 Ibid s 244(5).

10 Ibid s 244(6)(a).

11 Ibid s 244(6)(b).

12 Ibid s 244(6).

13 Ibid s 244(7).

### **UPDATE**

### **399 Joint arrangements between London authorities**

TEXT AND NOTE 5--Greater London Authority Act 1999 s 244(1) amended: Concessionary Bus Travel Act 2007 Sch 2 para 8.



Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/4. TRANSPORT IN LONDON/(6) TRAVEL CONCESSIONS/(ii) The Reserve Free Travel Scheme/400. Reserve free travel scheme for London residents.

## (ii) The Reserve Free Travel Scheme

### 400. Reserve free travel scheme for London residents.

If immediately before 1 January in any financial year<sup>1</sup> it appears to Transport for London<sup>2</sup> that there are not for the time being in force arrangements<sup>3</sup> for travel concessions<sup>4</sup> for London residents which:

- 620 (1) meet the requirements<sup>5</sup> as to scope<sup>6</sup>;
- 621 (2) meet the requirements<sup>7</sup> as to uniformity<sup>8</sup>; and
- 622 (3) will apply throughout the next following financial year<sup>9</sup>,

there will have effect during that next following financial year a scheme (the 'free travel scheme') for the purpose of ensuring that travel concessions are provided for all eligible London residents<sup>10</sup>. Where individual arrangements<sup>11</sup> made between a particular local authority<sup>12</sup> or local authorities and Transport for London apply to certain eligible London residents only, all arrangements so made must be considered together for the purpose of determining whether the requirements<sup>13</sup> as to scope and uniformity are satisfied<sup>14</sup>.

In any financial year during which the free travel scheme has effect it is the duty of Transport for London to provide or secure the provision of the travel concessions for eligible London residents required by the free travel scheme<sup>15</sup>.

1 For the meaning of 'financial year' see PARA 131 note 21 ante.

2 As to Transport for London see PARAS 269-321 post.

3 Ie under the Greater London Authority Act 1999 s 240(1): see PARA 396 ante.

4 For the meaning of 'travel concession' see PARA 396 note 3 ante.

5 Ie the requirements of the Greater London Authority Act 1999 s 242 (as amended): see PARA 397 ante.

6 Ibid s 241(1)(a).

7 Ie the requirements of ibid s 243 (as amended): see PARA 398 ante.

8 Ibid s 241(1)(b).

9 Ibid s 241(1)(c).

10 Ibid s 241(1) (amended by the Transport for London Act 2000 s 151(1), (13)). For the meaning of 'eligible London residents' see PARA 396 note 17 ante. The Greater London Authority Act 1999 s 241 (as amended) is modified by the London Regional Transport (Transitional Modifications) Order 2000, SI 2000/1504, for the duration of the transitional period (as defined in art 2), to provide for the reserve free travel scheme to cover London Regional Transport's services as well as those of Transport for London: see art 6. As to London Regional Transport see PARA 271 ante. As to the transition from London Regional Transport to Transport for London see PARA 271 et seq ante.

11 Ie under the Greater London Authority Act 1999 s 240(1) (as amended): see PARA 396 ante.

12 For the meaning of 'local authority' see PARA 396 note 1 ante.

13     le the requirements of the Greater London Authority Act 1999 ss 242, 243 (both as amended): see PARAS 397-398 ante.

14     Ibid s 241(2).

15     Ibid s 241(3).

## **UPDATE**

### **400-407 The Reserve Free Travel Scheme**

See also the Greater London Authority Act 1999 Sch 16 para A1 (added by the Concessionary Bus Travel Act 2007 Sch 1 para 2) (concession required for all eligible England residents).

### **400 Reserve free travel scheme for London residents**

TEXT AND NOTES--Greater London Authority Act 1999 s 241 further amended and repealed in part: Concessionary Bus Travel Act 2007 s 5, Sch 3.

NOTE 10--SI 2000/1504 revoked: SI 2003/1615.

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/4. TRANSPORT IN LONDON/(6) TRAVEL CONCESSIONS/(ii) The Reserve Free Travel Scheme/401. Concessions required for blind persons.

#### **401. Concessions required for blind persons.**

In any financial year<sup>1</sup> during which the free travel scheme<sup>2</sup> has effect, the concession required by the scheme in the case of all eligible London residents<sup>3</sup> in the blind persons' category<sup>4</sup> is the waiver, on production of a travel concession permit<sup>5</sup> issued to any such resident<sup>6</sup>, of any fare otherwise payable by the person to whom it was issued for any journey<sup>7</sup> on which concessions may be made<sup>8</sup>.

1 For the meaning of 'financial year' see PARA 131 note 21 ante.

2 For the meaning of 'free travel scheme' see PARA 400 ante.

3 For the meaning of 'eligible London residents' see PARA 396 note 17 ante.

4 As to references to a 'category of eligible London residents' see PARA 396 note 17 ante.

5 For the meaning of 'travel concession permit' see PARA 398 note 7 ante; and for the meaning of 'travel concession' see PARA 396 note 3 ante.

6 Ie under the Greater London Authority Act 1999 s 241(5), Sch 16 para 4(2): see PARA 404 post.

7 Ie any journey falling within ibid s 242(2): see PARA 397 ante.

8 Ibid Sch 16 para 1.

#### **UPDATE**

#### **400-407 The Reserve Free Travel Scheme**

See also the Greater London Authority Act 1999 Sch 16 para A1 (added by the Concessionary Bus Travel Act 2007 Sch 1 para 2) (concession required for all eligible England residents).

#### **401 Concessions required for blind persons**

TEXT AND NOTES--Greater London Authority Act 1999 Sch 16 para 1 amended:  
Concessionary Bus Travel Act 2007 Sch 1 para 3.

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/4. TRANSPORT IN LONDON/(6) TRAVEL CONCESSIONS/(ii) The Reserve Free Travel Scheme/402. Concessions required for eligible London residents in other categories.

#### **402. Concessions required for eligible London residents in other categories.**

In any financial year<sup>1</sup> during which the free travel scheme<sup>2</sup> has effect, the concession required by the scheme in the case of all eligible London residents<sup>3</sup> in any category other than the blind persons category<sup>4</sup>, is the waiver, on production of a travel concession permit<sup>5</sup> issued to any such resident<sup>6</sup>, of any fare otherwise payable by the person to whom it was issued for any of the journeys for which concessions may be made<sup>7</sup> and beginning at any time on a Saturday or Sunday or on any day which is a bank holiday in England and Wales under the Banking and Financial Dealings Act 1971<sup>8</sup>, or in an eligible period<sup>9</sup> on any other day<sup>10</sup>.

1 For the meaning of 'financial year' see PARA 131 note 21 ante.

2 For the meaning of 'free travel scheme' see PARA 400 ante.

3 For the meaning of 'eligible London residents' see PARA 396 note 17 ante.

4 As to references to a 'category of eligible London residents' see PARA 396 note 17 ante.

5 For the meaning of 'travel concession permit' see PARA 398 note 7 ante.

6 Ie under the Greater London Authority Act 1999 s 241(5), Sch 16 para 4(2): see PARA 404 post.

7 Ie any journey falling within ibid s 242(2): see PARA 397 ante.

8 Ibid Sch 16 para 2(1), (2)(a) (Sch 24 para 2(1) amended by the Transport Act 2000 s 274, Sch 31 Pt II). As to bank holidays under the Banking and Financial Dealings Act 1971 see TIME vol 97 (2010) PARA 321.

9 For these purposes, the eligible periods are the period from midnight to 4.30 am, and the period from 9 am to midnight: Greater London Authority Act 1999 Sch 16 para 2(3). The periods which are eligible periods for these purposes may be altered from time to time by Transport for London by notice published in such manner as it thinks fit, specifying the new period or periods and the effective date of the alteration: Sch 16 para 2(4). Such a notice may not specify an effective date for the alteration of a period to which it applies falling earlier than three months after the date of publication of the notice: Sch 16 para 2(5). Before publishing a notice under Sch 16 para 2(4), Transport for London must consult each London authority and the London Transport Users' Committee: Sch 16 para 2(6). For the meaning of 'notice' see PARA 83 note 10 ante. For the meaning of 'London authority' see PARA 396 note 1 ante. As to Transport for London see PARAS 269-321 ante. As to the London Transport Users' Committee see PARAS 322-333 ante.

10 Ibid Sch 16 para 2(1), (2)(b) (Sch 24 para 2(1) as amended: see note 8 supra).

#### **UPDATE**

#### **400-407 The Reserve Free Travel Scheme**

See also the Greater London Authority Act 1999 Sch 16 para A1 (added by the Concessionary Bus Travel Act 2007 Sch 1 para 2) (concession required for all eligible England residents).

#### **402 Concessions required for eligible London residents in other categories**

TEXT AND NOTES--Greater London Authority Act 1999 Sch 16 para 2 amended:  
Concessionary Bus Travel Act 2007 Sch 1 para 4.





Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/4. TRANSPORT IN LONDON/(6) TRAVEL CONCESSIONS/(ii) The Reserve Free Travel Scheme/403. Notification that free travel scheme is to have effect.

**403. Notification that free travel scheme is to have effect.**

As soon as it appears to Transport for London<sup>1</sup> that the free travel scheme<sup>2</sup> will have effect during the next financial year<sup>3</sup>, Transport for London must notify<sup>4</sup> each London authority<sup>5</sup> that the scheme will have effect during that financial year<sup>6</sup>.

1 As to Transport for London see PARAS 269-321 ante.

2 For the meaning of 'free travel scheme' see PARA 400 ante.

3 For the meaning of 'financial year' see PARA 131 note 21 ante.

4 For the meaning of 'notify' see PARA 83 note 10 ante.

5 For the meaning of 'London authority' see PARA 396 note 1 ante.

6 Greater London Authority Act 1999 s 241(5), Sch 16 para 3.

**UPDATE**

**400-407 The Reserve Free Travel Scheme**

See also the Greater London Authority Act 1999 Sch 16 para A1 (added by the Concessionary Bus Travel Act 2007 Sch 1 para 2) (concession required for all eligible England residents).

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/4. TRANSPORT IN LONDON/(6) TRAVEL CONCESSIONS/(ii) The Reserve Free Travel Scheme/404. Issue of permits.

#### **404. Issue of permits.**

For the purposes of the operation of the free travel scheme<sup>1</sup> in any financial year<sup>2</sup> during which the scheme has effect, Transport for London<sup>3</sup> must from time to time supply to each London authority<sup>4</sup> such travel concession permits<sup>5</sup> as appears to Transport for London to be required by that council for issue to eligible London residents<sup>6</sup>. A London authority must issue a travel concession permit so supplied by Transport for London to any eligible London resident who applies for one and is resident in the area of that authority<sup>7</sup>. The issue of such a permit by any London authority is subject to such terms, limitations or conditions as the authority may, with the approval of the Mayor of London<sup>8</sup>, from time to time determine as respects any category of eligible London residents<sup>9</sup>.

1 For the meaning of 'free travel scheme' see PARA 400 ante.

2 For the meaning of 'financial year' see PARA 131 note 21 ante.

3 As to Transport for London see PARAS 269-321 ante.

4 For the meaning of 'London authority' see PARA 396 note 1 ante.

5 For the meaning of 'travel concession permit' see PARA 398 note 7 ante.

6 Greater London Authority Act 1999 s 241(5), Sch 16 para 4(1). For the meaning of 'eligible London residents' see PARA 396 note 17 ante.

7 Ibid Sch 16 para 4(2).

8 As to the Mayor of London see PARA 81 ante.

9 Greater London Authority Act 1999 Sch 16 para 4(3). As to references to a 'category of eligible London residents' see PARA 396 note 17 ante.

#### **UPDATE**

#### **400-407 The Reserve Free Travel Scheme**

See also the Greater London Authority Act 1999 Sch 16 para A1 (added by the Concessionary Bus Travel Act 2007 Sch 1 para 2) (concession required for all eligible England residents).

#### **404 Issue of permits**

TEXT AND NOTES--Greater London Authority Act 1999 Sch 16 para 4 amended: Concessionary Bus Travel Act 2007 Sch 1 para 5.

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/4. TRANSPORT IN LONDON/(6) TRAVEL CONCESSIONS/(ii) The Reserve Free Travel Scheme/405. Charges made for permits.

#### **405. Charges made for permits.**

Before 1 February in any financial year<sup>1</sup> (the 'current financial year') immediately preceding a financial year during which the free travel scheme<sup>2</sup> will have effect, Transport for London<sup>3</sup> must notify<sup>4</sup> each London authority<sup>5</sup> of the charge to be paid by the authority to Transport for London:

- 623 (1) for each quarter of the financial year during which the free travel scheme will have effect<sup>6</sup>;
- 624 (2) in respect of each travel concession permit<sup>7</sup> issued<sup>8</sup> and valid on the first day of that quarter<sup>9</sup>.

The charges so payable by London authorities are to be fixed by Transport for London with a view to securing that the costs of the operation of the free travel scheme<sup>10</sup> are met from the proceeds of those charges (taking one financial year during which the scheme has effect with another, where the scheme has effect during two or more consecutive financial years)<sup>11</sup>, and may differ for different quarters of a financial year<sup>12</sup>.

1 For the meaning of 'financial year' see PARA 131 note 21 ante.

2 For the meaning of 'free travel scheme' see PARA 400 ante.

3 As to Transport for London see PARAS 269-321 ante.

4 For the meaning of 'notify' see PARA 83 note 10 ante.

5 For the meaning of 'London authority' see PARA 396 note 1 ante.

6 Greater London Authority Act 1999 s 241(5), Sch 16 para 5(1)(a).

7 For the meaning of 'travel concession permit' see PARA 398 note 7 ante.

8 It is issued under the Greater London Authority Act 1999 Sch 16 para 4(2): see PARA 404 ante.

9 Ibid Sch 16 para 5(1)(b).

10 The reference to the costs of the operation of the free travel scheme is a reference, in relation to any financial year taken into account in fixing any charges under *ibid* Sch 16 para 5(2), to the aggregate of the following amounts:

- 112 (1) the revenue by way of fares which Transport for London estimates that it and any of its subsidiaries have lost or will lose in that year in consequence of the provision of free travel under the scheme (Sch 16 para 5(3), (4)(a)); and
- 113 (2) any other costs which Transport for London has incurred or estimates that it will incur in that year in connection with providing, or for the purpose of securing the provision of, free travel under the scheme (including any payments Transport for London has made or proposes to make for that purpose to any person with whom they have entered into an agreement by virtue of s 156(2) or s 156(3) (see PARA 287 ante) or who has entered into a transport subsidiary's agreement) (Sch 16 para 5(3), (4)(b)).

As to the meaning of 'subsidiary' see PARA 288 note 2 ante. As to references to agreements entered into by Transport for London under s 156(2) or s 156(3) see PARA 287 ante. For the meaning of 'transport subsidiary's agreement' see s 169; and PARA 288 note 2 ante.

11 Ibid Sch 16 para 5(2)(a).

12 Ibid Sch 16 para 5(2)(b). In fixing the charges payable by London authorities Transport for London must take into account the sum applicable by virtue of Sch 16 para 5(6), and the matters specified in Sch 16 para 5(7): Sch 16 para 5(5). The sum applicable by virtue of Sch 16 para 5(6) is: (1) where the free travel scheme does not have effect during the current financial year, a sum equivalent to the total of the costs agreed to be reimbursed by local authorities during the current financial year under arrangements made by virtue of s 240(1) (as amended) (see PARA 396 ante); or (2) where the free travel scheme has effect during the current financial year, a sum equivalent to the charges payable by London authorities in respect of the current financial year: Sch 16 para 5(6). The matters specified in Sch 16 para 5(7) are: (a) the coming into operation of a service falling within s 242(3) (see PARA 397 ante), or the variation or discontinuance of such a service; (b) changes in the fares payable in respect of any such service; and (c) changes in the methods or information available to Transport for London for calculating the amounts specified in Sch 16 para 5(4) (see note 10 supra), since costs were last agreed to be reimbursed by local authorities under arrangements made by virtue of s 240(1) (as amended) or, if more recent, since charges payable under Sch 16 para 5 were last fixed: Sch 16 para 5(7). For the meaning of 'local authority' see PARA 396 note 1 ante.

## **UPDATE**

### **400-407 The Reserve Free Travel Scheme**

See also the Greater London Authority Act 1999 Sch 16 para A1 (added by the Concessionary Bus Travel Act 2007 Sch 1 para 2) (concession required for all eligible England residents).

### **405 Charges made for permits**

NOTE 12--Greater London Authority Act 1999 Sch 16 para 5(7) amended: Concessionary Bus Travel Act 2007 Sch 1 para 6.

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/4. TRANSPORT IN LONDON/(6) TRAVEL CONCESSIONS/(ii) The Reserve Free Travel Scheme/406. Payments by London authorities.

#### **406. Payments by London authorities.**

Before the end of the first month of each quarter of each financial year<sup>1</sup> during which the free travel scheme<sup>2</sup> has effect, each London authority<sup>3</sup> must:

- 625 (1) pay to Transport for London<sup>4</sup>, in respect of each travel concession permit<sup>5</sup> issued by that authority and valid on the first day of that quarter, the charge fixed by Transport for London<sup>6</sup> which is applicable to that permit for that quarter<sup>7</sup>;
- 626 (2) provide Transport for London with a written statement giving the particulars required by heads (a) to (c) below<sup>8</sup> with respect to the travel concession permits supplied<sup>9</sup> to the authority by Transport for London<sup>10</sup>; and
- 627 (3) if required to do so by Transport for London, return to Transport for London all such permits which have not been issued by the authority before the beginning of that quarter<sup>11</sup>.

The particulars so required in any statement under head (2) above with respect to any quarter of the financial year in question are:

- 628 (a) the number of travel concession permits supplied to the authority by Transport for London<sup>12</sup> and issued to eligible London residents<sup>13</sup> of each category<sup>14</sup> which are valid on the first day of that quarter<sup>15</sup>;
- 629 (b) the number of such permits so issued, if any, which expired or were surrendered to the authority during the last preceding quarter<sup>16</sup>; and
- 630 (c) the number of such permits supplied for issue to eligible London residents of each category which have not been issued by the authority before the beginning of the quarter for which the statement is required<sup>17</sup>.

1 For the meaning of 'financial year' see PARA 131 note 21 ante.

2 For the meaning of 'free travel scheme' see PARA 400 ante.

3 For the meaning of 'London authority' see PARA 396 note 1 ante.

4 As to Transport for London see PARAS 269-321 ante.

5 For the meaning of 'travel concession permit' see PARA 398 note 7 ante.

6 Ie under the Greater London Authority Act 1999 s 241(5), Sch 16 para 5: see PARA 405 ante.

7 Ibid Sch 16 para 6(1)(a).

8 Ie the particulars required by ibid Sch 16 para 6(2): see heads (a)-(c) in the text.

9 Ie under ibid Sch 16 para 4(1): see PARA 404 ante.

10 Ibid Sch 16 para 6(1)(b).

11 Ibid Sch 16 para 6(1)(c).

12 Ie under ibid Sch 16 para 4(1): see PARA 404 ante.

13 For the meaning of 'eligible London residents' see PARA 396 note 17 ante.

14 As to references to a 'category of eligible London residents' see PARA 396 note 17 ante.

15 Greater London Authority Act 1999 Sch 16 para 6(2)(a).

16 Ibid Sch 16 para 6(2)(b).

17 Ibid Sch 16 para 6(2)(c).

## **UPDATE**

### **400-407 The Reserve Free Travel Scheme**

See also the Greater London Authority Act 1999 Sch 16 para A1 (added by the Concessionary Bus Travel Act 2007 Sch 1 para 2) (concession required for all eligible England residents).

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/4. TRANSPORT IN LONDON/(6) TRAVEL CONCESSIONS/(ii) The Reserve Free Travel Scheme/407. Annual report of Transport for London.

**407. Annual report of Transport for London.**

With respect to each financial year<sup>1</sup> during which the free travel scheme<sup>2</sup> has effect, the annual report of Transport for London<sup>3</sup> must contain a statement of the manner in which the charges fixed<sup>4</sup> in respect of each quarter of that year were calculated<sup>5</sup>, and the aggregate of the amounts paid<sup>6</sup> to Transport for London during that year by London authorities<sup>7</sup>.

1 For the meaning of 'financial year' see PARA 131 note 21 ante.

2 For the meaning of 'free travel scheme' see PARA 400 ante.

3 Ie under the Greater London Authority Act 1999 s 161: see PARA 295 ante. As to Transport for London see PARAS 269-321 ante.

4 Ie under ibid s 241(5), Sch 16 para 5: see PARA 405 ante.

5 Ibid Sch 16 para 8(a).

6 Ie under ibid Sch 16 para 6(1)(a): see PARA 406 ante.

7 Ibid Sch 16 para 8(b).

**UPDATE**

**400-407 The Reserve Free Travel Scheme**

See also the Greater London Authority Act 1999 Sch 16 para A1 (added by the Concessionary Bus Travel Act 2007 Sch 1 para 2) (concession required for all eligible England residents).

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/4. TRANSPORT IN LONDON/(7) PENALTY FARES/408. Operation of penalty fares.

## **(7) PENALTY FARES**

### **408. Operation of penalty fares.**

The London Regional Transport (Penalty Fares) Act 1992 provided for a system of penalty fares for bus and train passengers travelling without a valid ticket<sup>1</sup>.

The Greater London Authority Act 1999 contains similar provisions<sup>2</sup>, which apply to any local service or train service<sup>3</sup> provided by Transport for London<sup>4</sup> or any of its subsidiaries<sup>5</sup>, or by any other person in pursuance of an agreement entered into by Transport for London<sup>6</sup>, or in pursuance of a transport subsidiary's agreement<sup>7</sup>. The penalty fare provisions<sup>8</sup> have effect in relation to travel on any local service or train service or any part of such a service if an order to that effect<sup>9</sup> is for the time being in force in respect of such service or part of a service<sup>10</sup>.

The Mayor of London<sup>11</sup> may by order provide that the penalty fare provisions are to have effect, as from such day as may be specified in the order, with respect to any local service or train service or any part of any local service or train service, and different days may be specified in any such order with respect to different services or different parts of any service<sup>12</sup>. The revocation by the Mayor of such an order is without prejudice to his power to make further such orders as respects any service or part of a service dealt with by the order<sup>13</sup>.

1 See the London Regional Transport (Penalty Fares) Act 1992. This Act is repealed as from a day to be appointed by the Greater London Authority Act 1999 ss 245, 423, Sch 17 para 11, Sch 34 Pt II. At the date at which this volume states the law, no such day had been appointed.

The penalty fare provisions of the London Regional Transport (Penalty Fares) Act 1992 were brought into force by activating orders: see the London Regional Transport (Penalty Fares) Act 1992 (Activating No 1) Order 1994, SI 1994/702 (train services provided by London Underground Ltd (a subsidiary of London Regional Transport)); and the London Regional Transport (Penalty Fares) Act 1992 (Activating No 2) Order 1995, SI 1995/1071 (buses).

As to penalty fares in relation to trains generally see the Railways Act 1993 s 130; the Railways (Penalty Fares) Regulations 1994, SI 1994/576; and RAILWAYS, INLAND WATERWAYS AND CROSS-COUNTRY PIPELINES vol 39(1A) (Reissue) PARA 396 et seq.

2 See the Greater London Authority Act 1999 s 245, Sch 17: see PARA 409 et seq post. For these purposes, 'penalty fare' means a penalty fare payable pursuant to *ibid* Sch 17 para 3 or Sch 17 para 4 (see PARAS 410-411 post): Sch 17 para 1(1).

3 For these purposes, 'train service' means a service for the carriage of passengers by rail: *ibid* Sch 17 para 1(1). References to a local service or to a train service are, unless the context otherwise requires, references to a local service or a train service to which Sch 17 applies: Sch 17 para 2(2).

4 As to the establishment of Transport for London see PARA 270 ante. At the date at which this volume states the law, responsibility for London Underground had not been transferred to Transport for London: see PARA 257 ante.

5 Greater London Authority Act 1999 Sch 17 para 2(1)(a). For these purposes, 'third person' means a person other than one referred to in Sch 17 para 2(1)(a) or Sch 17 para 2(1)(b): Sch 17 para 1(1). As to the meaning of 'subsidiary' see PARA 288 note 2 ante.

6 See *ibid* s 156(2) or s 156(3)(a) (see PARA 287 ante). For the purposes of Sch 17, a reference to an agreement entered into by Transport for London under s 156(2) or s 156(3) includes a reference to an agreement which was entered into by London Regional Transport under the London Regional Transport Act 1984 s 3(2) (prospectively repealed) or s 3(2A) (as added; prospectively repealed), and which by virtue of the Greater London Authority Act 1999 s 300 (see PARA 275 ante) or s 415 (see PARA 27 ante) has effect as if made



by Transport for London: Sch 17 para 2(7). As to the transition from London Regional Transport to Transport for London see PARAS 271-277 ante.

7 Ibid Sch 17 para 2(1)(b). The text refers to a transport subsidiary's agreement which provides that Sch 17 is to apply to services provided in pursuance of that agreement: see Sch 17 para 2(1)(b). For the meaning of 'transport subsidiary's agreement' see PARA 288 note 2 ante.

8 'The penalty fare provisions' means ibid Sch 17 paras 3-8 (see PARA 410 et seq post): Sch 17 para 1(1).

9 Is an order under ibid Sch 17 para 2(4): see the text to notes 11-12 infra.

10 Ibid Sch 17 para 2(3).

11 As to the Mayor of London see PARA 81 ante.

12 Greater London Authority Act 1999 Sch 17 para 2(4). Any activating order made by the Secretary of State under the London Regional Transport (Penalty Fares) Act 1992 s 3(4) (see note 1 supra) and in force immediately before the coming into force of the Greater London Authority Act 1999 Sch 17 para 2(4) has effect as from the coming into force of Sch 17 para 2(4) as if it were an order made by the Mayor under Sch 17 para 2(4): Sch 17 para 2(6).

13 Ibid Sch 17 para 2(5).

## **UPDATE**

### **408-500 Penalty Fares**

The Greater London Authority Act 1999 Sch 17 (amended by the Transport for London Act 2008 ss 27, 28) applies, with modifications, to services for the carriage of passengers by tram on Tramlink: see the Croydon Tramlink (Penalty Fares) Order 2003, SI 2003/1614.

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/4. TRANSPORT IN LONDON/(7) PENALTY FARES/409. Warning notices.

#### **409. Warning notices.**

Transport for London<sup>1</sup> must secure that the requirements with respect to warning notices<sup>2</sup> are met in the case of a local service or train service<sup>3</sup> in relation to travel on which the penalty fare provisions<sup>4</sup> have effect<sup>5</sup>. In the case of a local service, a warning notice<sup>6</sup> must be posted in every vehicle used in providing that service or, where any such vehicle has more than one deck, on each deck of that vehicle, in such a position as to be readily visible to persons travelling on the vehicle<sup>7</sup>. In the case of a train service, a warning notice<sup>8</sup> must be posted:

631 (1) at every station<sup>9</sup> at which persons may start to travel on that service, in such a position as to be readily visible to prospective passengers<sup>10</sup>; and

632 (2) in every carriage of every train used in providing that service in such a position as to be readily visible to passengers travelling in the carriage<sup>11</sup>.

A warning notice so posted<sup>12</sup>, however expressed, must indicate the circumstances<sup>13</sup> in which persons travelling on the service in question may be liable to pay a penalty fare<sup>14</sup>. Every warning notice posted must state the amount of the relevant penalty fare<sup>15</sup>.

1 As to the establishment of Transport for London see PARA 270 ante.

2 I.e. the requirements of the Greater London Authority Act 1999 s 245, Sch 17 para 7(4) or, as the case may be, Sch 17 para 7(5): see the text to notes 8-11 infra.

3 As to references to a local service or to a train service see PARA 408 note 3 ante.

4 For the meaning of 'the penalty fare provisions' see PARA 408 note 8 ante. For the meaning of 'penalty fare' see PARA 408 note 2 ante.

5 Greater London Authority Act 1999 Sch 17 para 7(3). As to the services to which the penalty fare provisions have effect see PARA 408 ante.

6 I.e. meeting the requirements of *ibid* Sch 17 para 7(6) and Sch 17 para 7(7): see the text and notes 12-15 infra.

7 *Ibid* Sch 17 para 7(4).

8 See note 6 supra.

9 For the meaning of 'station' see PARA 410 note 1 ante.

10 Greater London Authority Act 1999 Sch 17 para 7(5)(a).

11 *Ibid* Sch 17 para 7(5)(b).

12 I.e. pursuant to *ibid* Sch 17 para 7(4) or Sch 17 para 7(5): see the text and notes 6-11 supra.

13 I.e. as provided in *ibid* Sch 17 para 3(1), (2) or, as the case may be, Sch 17 para 4(1): see PARAS 410-411 post.

14 *Ibid* Sch 17 para 7(6).

15 *Ibid* Sch 17 para 7(7).

#### **UPDATE**

#### **408-500 Penalty Fares**

The Greater London Authority Act 1999 Sch 17 (amended by the Transport for London Act 2008 ss 27, 28) applies, with modifications, to services for the carriage of passengers by tram on Tramlink: see the Croydon Tramlink (Penalty Fares) Order 2003, SI 2003/1614.

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/4. TRANSPORT IN LONDON/(7) PENALTY FARES/410. Penalty fares on local services.

#### **410. Penalty fares on local services.**

If a person travelling on a ticket bus service<sup>1</sup> who has had a reasonable opportunity to obtain a fare ticket for a journey on that service fails to produce a fare ticket or a general travel authority on being required to do so by an authorised person<sup>2</sup>, he is liable to pay a penalty fare<sup>3</sup> if required to do so by an authorised person<sup>4</sup>. If a person travels on a non-ticket bus service<sup>5</sup> without paying the fare properly payable for a journey on that service and, while so travelling, fails to produce a general travel authority on being required to do so by an authorised person, he is liable to pay a penalty fare if required to do so by an authorised person<sup>6</sup>.

1 For these purposes, 'ticket bus service' means a local service on which fare tickets are issued in return for fares paid by persons travelling on that service, and a 'non-ticket bus service' means a local service on which fare tickets are not so issued: Greater London Authority Act 1999 s 245, Sch 17 para 3(3). 'Fare ticket' means a ticket, including one issued by a third person, showing payment of a fare and authorising the person in respect of whom it is issued to make a single journey covered by that fare on a local service or train service to which Sch 17 applies, or to make that journey and a return journey, whether or not it also authorises him to make a journey on a service provided by a third person: Sch 17 para 1(1). A person is travelling on a train service to which Sch 17 applies at any time when he is on a train forming part of that service or is in a compulsory ticket area: Sch 17 para 1(2). A person at a station is not to be taken as travelling by reason only of being in a compulsory ticket area or boarding a train at that station if he has entered that area or boards that train otherwise than for the purpose of making a journey and produces, if required to do so by an authorised person, a valid platform ticket: Sch 17 para 1(3). As to the services to which Sch 17 applies see PARA 408 ante.

'Compulsory ticket area' means that part of a station which, under the byelaws of the person providing a train service to which Sch 17 applies, passengers are not permitted to enter without a fare ticket, general travel authority or platform ticket: Sch 17 para 1(1). 'General travel authority' means any permit, including one issued by a third person, other than a fare ticket, authorising the person in respect of whom it is issued to travel on a local service or train service to which Sch 17 applies, whether or not it also authorises him to travel on a service provided by a third person: Sch 17 para 1(1). 'Platform ticket' means a ticket authorising a person to enter a compulsory ticket area but not to make a journey: Sch 17 para 1(1). 'Authorised person' means, in relation to any purpose, a person authorised for that purpose by Transport for London or by the person providing the service: Sch 17 para 1(1). 'Person providing the service' means the operator of the service, except that, in the case of a service provided in pursuance of an agreement entered into by Transport for London under s 156(2) or s 156(3)(a) (see PARA 287 ante), or in pursuance of a transport subsidiary's agreement, means Transport for London: Sch 17 para 1(1). For the meaning of 'transport subsidiary's agreement' see PARA 288 note 2 ante. 'Station' means a station serving a train service to which Sch 17 applies: Sch 17 para 1(1). For the meaning of 'third person' para 408 note 5 ante. As to the establishment of Transport for London see PARA 270 ante. As to references to an agreement entered into by Transport for London under s 156(2) or s 156(3)(a) see PARA 408 note 6 ante.

2 Any reference in *ibid* Sch 17 to a person producing a fare ticket or general travel authority on being required to do so by an authorised person is a reference to producing, when so required, a fare ticket or general travel authority which, either by itself or together with any other fare ticket or general travel authority produced by that person at the same time, is valid for the journey he has made: Sch 17 para 1(4). For the purposes of Sch 17 para 1(4), a person who has entered a compulsory ticket area otherwise than by transferring from a train service provided by a third person but has not boarded a train is taken to have made a journey for which the minimum fare is payable, and a person who is on a train is taken to have made a journey ending at the next station at which the train is scheduled to stop: Sch 17 para 1(5). For these purposes, 'minimum fare' means the minimum fare for which a journey from the station in question could validly be made by the person in question: Sch 17 para 1(6).

Where an authorised person requires any person to do anything pursuant to any provision of Sch 17 he must, if so requested by the person concerned, produce to that person a duly authenticated document showing his authority: Sch 17 para 7(8). A requirement by an authorised person is of no effect if, as respects that requirement, he fails to comply with Sch 17 para 7(8): Sch 17 para 7(9).

3 For the meaning of 'penalty fare' see PARA 408 note 2 ante.

4 Greater London Authority Act 1999 Sch 17 para 3(1).

5 See note 1 *supra*.

6 *Ibid* Sch 17 para 3(2).

## **UPDATE**

### **408-500 Penalty Fares**

The Greater London Authority Act 1999 Sch 17 (amended by the Transport for London Act 2008 ss 27, 28) applies, with modifications, to services for the carriage of passengers by tram on Tramlink: see the Croydon Tramlink (Penalty Fares) Order 2003, SI 2003/1614.

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/4. TRANSPORT IN LONDON/(7) PENALTY FARES/411. Penalty fares on trains.

#### **411. Penalty fares on trains.**

If a person travelling on a train service<sup>1</sup> fails to produce a fare ticket<sup>2</sup> or a general travel authority<sup>3</sup> on being required to do so by an authorised person<sup>4</sup>, he is liable to pay a penalty fare<sup>5</sup> if required to do so by an authorised person<sup>6</sup>. A person is not liable to pay such a penalty fare if at the time when and the station<sup>7</sup> where he started to travel on the train service there were no facilities available for the sale of the necessary fare ticket for his journey<sup>8</sup>. A person who starts to travel on a train service by transferring to that service from a train service provided by a third person<sup>9</sup> is not liable to pay a penalty fare if: (1) on being required to produce a fare ticket or general travel authority he produces a valid deferred fare authority<sup>10</sup> issued by that person<sup>11</sup>; or (2) at the time when and the station<sup>12</sup> where he started to travel on the train service provided by that person there were no facilities for either the sale of the necessary fare ticket for his journey or the sale of deferred fare authorities<sup>13</sup>.

In addition, a person is not liable to pay a penalty fare if at the time when and the station where his journey began:

- 633 (a) there was displayed a notice, however expressed, indicating that it was permissible for passengers beginning a journey at that station at that time to do so without having a fare ticket or a general travel authority or, in the case of a station controlled by a third person<sup>14</sup>, a deferred fare authority<sup>15</sup>; or
- 634 (b) a person in the uniform of the person controlling that station gave permission to the same effect<sup>16</sup>.

1 For the meaning of 'train service' see PARA 408 note 3 ante.

2 For the meaning of 'fare ticket' see PARA 410 note 1 ante.

3 For the meaning of 'general travel authority' see PARA 410 note 1 ante.

4 As to references to persons producing a fare ticket or a general travel authority on being required to do so by an authorised person see PARA 410 note 2 ante.

5 For the meaning of 'penalty fare' see PARA 408 note 2 ante.

6 Greater London Authority Act 1999 s 245, Sch 17 para 4(1).

7 For the meaning of 'station' see PARA 410 note 1 ante.

8 Greater London Authority Act 1999 Sch 17 para 4(2). The provisions of Sch 17 para 4(7) and Sch 17 para 4(8) have effect with respect to the burden of proof in any action for the recovery of a penalty fare under Sch 17 para 4, so far as concerns the question whether the facts of the case fall within Sch 17 para 4(2), (3)(b) or (4): Sch 17 para 4(6). In any case where the defendant has provided the claimant with a relevant statement in due time it is for the claimant to show that the facts of the case do not fall within Sch 17 para 4(2), (3)(b) or Sch 17 para 4(4) and in any other case it is for the defendant to show that the facts of the case fall within any of those provisions: Sch 17 para 4(7). For the purposes of Sch 17 para 4(7):

114 (1) a relevant statement is a statement giving an explanation of the defendant's failure to produce a fare ticket, general travel authority or, where relevant, deferred fare authority, together with any information as to his journey relevant to that explanation (including, in every case, an indication of the time when and the station where he started to travel on the train service and also, if he started so to travel when he transferred from a train service provided by a third person, the time when and the station where he started to travel on that service) (Sch 17 para 4(8)(a)); and

- 115 (2) a statement is provided in due time if it is provided when the defendant is required to produce a fare ticket or general travel authority, or at any later time before the expiration of the period of 21 days beginning with the day following the day on which the journey is completed (Sch 17 para 4(8)(b)).

9 For these purposes, a person is to be taken as transferring from a service provided by a third person to a service to which *ibid* Sch 17 applies if, but only if, having travelled on a train forming part of the former service, he goes from that train into a compulsory ticket area and: (1) finishes his journey at the station of which that area forms part; or (2) from that area boards a train forming part of a service to which Sch 17 applies: Sch 17 para 1(7). For the purposes of head (2) *supra*, in a case where the transfer takes place at a station controlled by a third person, 'compulsory ticket area' means such area at that station as corresponds with a compulsory ticket area within the meaning of Sch 17 (see *PARA 410* note 1 *ante*): Sch 17 para 1(8). For the meaning of 'third person' see *PARA 408* note 5 *ante*.

10 For the purposes of *ibid* Sch 17 para 4(3), 'deferred fare authority' means a ticket or other document described as such on its face, and a deferred fare authority is valid for the purposes of Sch 17 para 4(3) if it authorises a person in possession of it to start a journey at the time when and the station where the person producing it started his journey: Sch 17 para 4(5).

11 *Ibid* Sch 17 para 4(3)(a).

12 For the meaning of 'station' see *PARA 410* note 1 *ante*.

13 Greater London Authority Act 1999 Sch 17 para 4(3)(b). See note 8 *supra*.

14 For the meaning of 'third person' para 408 note 5 *ante*.

15 Greater London Authority Act 1999 Sch 17 para 4(4)(a). See note 8 *supra*.

16 *Ibid* Sch 17 para 4(4)(b). See note 8 *supra*.

## **UPDATE**

### **408-500 Penalty Fares**

The Greater London Authority Act 1999 Sch 17 (amended by the Transport for London Act 2008 ss 27, 28) applies, with modifications, to services for the carriage of passengers by tram on Tramlink: see the Croydon Tramlink (Penalty Fares) Order 2003, SI 2003/1614.

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/4. TRANSPORT IN LONDON/(7) PENALTY FARES/412. Amount of penalty fare.

#### **412. Amount of penalty fare.**

A penalty fare<sup>1</sup> is: (1) in respect of any journey on a local service<sup>2</sup>, £5<sup>3</sup>; and (2) in respect of any train journey<sup>4</sup>, £10<sup>5</sup>, and is payable to the person providing the service on which the requirement to pay the penalty fare is made before the expiration of the period of 21 days beginning with the day following the day on which the journey is completed<sup>6</sup>.

The Mayor of London<sup>7</sup> may by order<sup>8</sup> prescribe that the amount of the penalty fare in either or both of the cases set out in head (1) and head (2) above is different, whether higher or lower<sup>9</sup>. No such order may be made by the Mayor unless he has consulted the Secretary of State<sup>10</sup> and:

- 635 (a) such persons or bodies representative of local authorities<sup>11</sup>;
- 636 (b) such persons or bodies representative of those who travel on local services and train services<sup>12</sup>; and
- 637 (c) such other persons or bodies<sup>13</sup>,

as the Mayor considers it appropriate to consult<sup>14</sup>.

1 For the meaning of 'penalty fare' see PARA 408 note 2 ante.

2 As to references to a local service or to a train service see PARA 408 note 3 ante.

3 Greater London Authority Act 1999 s 245, Sch 17 para 5(1)(a).

4 See note 2 supra.

5 Greater London Authority Act 1999 Sch 17 para 5(1)(b).

6 Ibid Sch 17 para 5(1).

7 As to the Mayor of London see PARA 81 ante.

8 Orders made by the Mayor under the Greater London Authority Act 1999 Sch 17 para 5(2) are not made by statutory instrument and accordingly are not recorded in this work.

9 Ibid Sch 17 para 5(2).

10 As to the Secretary of State see PARA 12 note 2 ante.

11 Greater London Authority Act 1999 Sch 17 para 5(3)(a). For the meaning of 'local authority' see PARA 17 note 9 ante.

12 Ibid Sch 17 para 5(3)(b).

13 Ibid Sch 17 para 5(3)(c).

14 Ibid Sch 17 para 5(3).

### **UPDATE**

#### **408-500 Penalty Fares**

The Greater London Authority Act 1999 Sch 17 (amended by the Transport for London Act 2008 ss 27, 28) applies, with modifications, to services for the carriage of



passengers by tram on Tramlink: see the Croydon Tramlink (Penalty Fares) Order 2003, SI 2003/1614.

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/4. TRANSPORT IN LONDON/(7) PENALTY FARES/413. Payment of penalty fare.

### **413. Payment of penalty fare.**

An authorised person<sup>1</sup> who requires a passenger to pay a penalty fare<sup>2</sup> must give him either a receipt for the payment of the amount of the penalty, where the passenger makes that payment to the authorised person, or a notice stating that the requirement has been made<sup>3</sup>. Such a receipt or notice must specify the passenger's destination on the local service or train service<sup>4</sup> on which he is travelling when required to pay the penalty fare, and operates as an authority to him to complete his journey to or at that destination<sup>5</sup>. For these purposes, the passenger's destination, unless he is at that destination or only one destination is possible in the circumstances, is to be taken to be the destination stated by the passenger or, in default of any statement by him for that purpose, such destination as may be specified by the authorised person<sup>6</sup>.

A person who is required to pay a penalty fare must, unless he pays, immediately and in cash, the amount of the penalty fare to an authorised person requiring such payment, give to that authorised person, if that person requires him to do so, his name and address<sup>7</sup>. A person failing to give his name and address when required to do so is guilty of an offence and liable on summary conviction to a fine<sup>8</sup>.

1 For the meaning of 'authorised person' see PARA 410 note 1 ante.

2 For the meaning of 'penalty fare' see PARA 408 note 2 ante.

3 Greater London Authority Act 1999 s 245, Sch 17 para 6(1).

4 As to references to a local service or to a train service see PARA 408 note 3 ante.

5 Greater London Authority Act 1999 Sch 17 para 6(2).

6 Ibid Sch 17 para 6(3).

7 Ibid Sch 17 para 7(1).

8 Ibid Sch 17 para 7(2). The fine imposed is one not exceeding level 2 on the standard scale: Sch 17 para 7(2). As to the standard scale see PARA 87 note 6 ante.

### **UPDATE**

#### **408-500 Penalty Fares**

The Greater London Authority Act 1999 Sch 17 (amended by the Transport for London Act 2008 ss 27, 28) applies, with modifications, to services for the carriage of passengers by tram on Tramlink: see the Croydon Tramlink (Penalty Fares) Order 2003, SI 2003/1614.

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/4. TRANSPORT IN LONDON/(7) PENALTY FARES/414. Exclusion of double liability.

#### **414. Exclusion of double liability.**

Where a person has become liable<sup>1</sup> to pay a penalty fare<sup>2</sup> in respect of any journey on a local service or any train journey<sup>3</sup>, no proceedings may be brought against him for any of the offences specified<sup>4</sup> in heads (a) to (c) below before the end of the period<sup>5</sup> of 21 days beginning with the day following the day on which the journey is completed<sup>6</sup>. No proceedings may be brought after the end of that period if: (1) before the end of that period, the person who has become liable to pay the penalty fare has paid it to the person providing the service on which the requirement to pay it was made<sup>7</sup>; or (2) a claim has been brought against the person who has become liable to pay the penalty fare for the recovery of that fare<sup>8</sup>.

The offences referred to above are:

- 638 (a) any offence of travelling without paying the correct fare with intent to avoid payment<sup>9</sup> arising from the relevant journey<sup>10</sup>;
- 639 (b) any offence under byelaws for railways<sup>11</sup> involving a failure to obtain or produce a fare ticket<sup>12</sup> or general travel authority<sup>13</sup> for the relevant journey<sup>14</sup>; and
- 640 (c) any offence<sup>15</sup> of contravening or failing to comply with any provision of regulations for the time being having effect<sup>16</sup> by failing to pay the fare properly payable for the relevant journey or any part of it<sup>17</sup>.

If proceedings are brought in contravention of the provisions described above<sup>18</sup> the person who has become liable to pay the penalty fare ceases to be liable to pay it, but where that person has paid that fare, the person to whom it is paid is liable to repay to that person the amount of that fare<sup>19</sup>.

1    Ie under the Greater London Authority Act 1999 s 245, Sch 17 para 3 or Sch 17 para 4: see PARAS 410-411 ante.

2    For the meaning of 'penalty fare' see PARA 408 note 2 ante.

3    As to references to a local service or to a train service see PARA 408 note 3 ante.

4    Ie in the Greater London Authority Act 1999 Sch 17 para 8(3): see the text and notes 9-17 infra.

5    Ie the period mentioned in ibid Sch 17 para 5(1): see PARA 412 ante.

6    Ibid Sch 17 para 8(1).

7    Ibid Sch 17 para 8(2)(a).

8    Ibid Sch 17 para 8(2)(b).

9    Ie under the Regulation of Railways Act 1889 s 5(3)(a) or s 5(3)(b): see RAILWAYS, INLAND WATERWAYS AND CROSS-COUNTRY PIPELINES vol 39(1A) (Reissue) PARA 395.

10   Greater London Authority Act 1999 Sch 17 para 8(3)(a).

11   Ie made under the Transport Act 1962 s 67 (as amended; prospectively repealed) or the Greater London Authority Act 1999 Sch 11 para 26: see PARA 313 ante.

12   For the meaning of 'fare ticket' see PARA 410 note 1 ante.

13   For the meaning of 'general travel authority' see PARA 410 note 2 ante.

14 Greater London Authority Act 1999 Sch 17 para 8(3)(b).

15 le under the Public Passenger Vehicles Act 1981 s 25(3) (as amended): see ROAD TRAFFIC vol 40(3) (2007 Reissue) PARA 1173.

16 le by virtue of ibid s 25 (as amended): see ROAD TRAFFIC vol 40(3) (2007 Reissue) PARA 1173.

17 Greater London Authority Act 1999 Sch 17 para 8(3)(c).

18 le ibid Sch 17 para 8: see the text and notes 1-17 supra.

19 Ibid Sch 17 para 8(4).

## **UPDATE**

### **408-500 Penalty Fares**

The Greater London Authority Act 1999 Sch 17 (amended by the Transport for London Act 2008 ss 27, 28) applies, with modifications, to services for the carriage of passengers by tram on Tramlink: see the Croydon Tramlink (Penalty Fares) Order 2003, SI 2003/1614.

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/4. TRANSPORT IN LONDON/(7) PENALTY FARES/415. Appeals.

#### **415. Appeals.**

If requested to do so by the Mayor of London<sup>1</sup>, the Secretary of State<sup>2</sup> must by regulations make provision enabling a person required to pay a penalty fare<sup>3</sup> to appeal against that requirement<sup>4</sup>. Such regulations may include provision for:

- 641 (1) appeals to be heard and determined by independent adjudicators<sup>5</sup>;
- 642 (2) the appointment of such adjudicators<sup>6</sup>;
- 643 (3) requiring Transport for London<sup>7</sup> to reconsider, before an appeal is determined, whether the appellant should be required to pay the penalty fare<sup>8</sup>; and
- 644 (4) the adjudicator's directions in relation to an appeal to be binding upon Transport for London and the appellant<sup>9</sup>.

1 As to the Mayor of London see PARA 81 ante.

2 As to the Secretary of State see PARA 12 note 2 ante.

3 For the meaning of 'penalty fare' see PARA 408 note 2 ante.

4 Greater London Authority Act 1999 s 245, Sch 17 para 10(1). At the date at which this volume states the law no such regulations had been made. As to the making of regulations generally see PARA 13 ante.

5 Ibid Sch 17 para 10(2)(a).

6 Ibid Sch 17 para 10(2)(b).

7 As to the establishment of Transport for London see PARA 270 ante.

8 Greater London Authority Act 1999 Sch 17 para 10(2)(c).

9 Ibid Sch 17 para 10(2)(d). As to the giving of directions see PARA 13 ante.

#### **UPDATE**

#### **408-500 Penalty Fares**

The Greater London Authority Act 1999 Sch 17 (amended by the Transport for London Act 2008 ss 27, 28) applies, with modifications, to services for the carriage of passengers by tram on Tramlink: see the Croydon Tramlink (Penalty Fares) Order 2003, SI 2003/1614.

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/4. TRANSPORT IN LONDON/(7) PENALTY FARES/416. Power to apply penalty fares provisions to other train services and tramways.

#### **416. Power to apply penalty fares provisions to other train services and tramways.**

Provision is made in relation to any services for the carriage of passengers by railway or tramway<sup>1</sup> which do not fall within the services to which the penalty fares provisions apply<sup>2</sup> but which: (1) are provided wholly within Greater London<sup>3</sup>; and (2) are services, or services of a class or description, designated in an order made by the Secretary of State<sup>4</sup> as services in relation to which such provision is to apply<sup>5</sup>. These are referred to as 'qualifying train services'.

The Mayor of London<sup>6</sup> may, on the application of a person who provides qualifying train services, by order provide that the provisions relating to penalty fares<sup>7</sup> apply, from such date and with such modifications as may be specified in the order, to qualifying train services provided by that person<sup>8</sup>. The power of the Mayor to make such an order includes power, exercisable in the same manner and subject to the same conditions and limitations, to revoke, amend or re-enact any such order<sup>9</sup>. Such an order may specify circumstances in which the order ceases to have effect before the expiry of any period specified in such an order<sup>10</sup>. Where a person makes an application for such an order, or for an order revoking, amending or re-enacting such an order, the Mayor may recover from that person payments in respect of the administrative costs reasonably incurred in connection with the application, and if an order is made as a result of the application, the making of the order<sup>11</sup>.

The Mayor must secure that any order<sup>12</sup>, and any order revoking, amending or re-enacting any such order, is printed and published<sup>13</sup>. A fee may be charged for the sale of an order so printed and published<sup>14</sup>.

1 For these purposes, 'railway' and 'tramway' have the same meanings as in the Transport and Works Act 1992 s 67(1) (see RAILWAYS, INLAND WATERWAYS AND CROSS-COUNTRY PIPELINES vol 39(1A) (Reissue) PARA 302): Greater London Authority Act 1999 s 245, Sch 17 para 9(11).

2 Ie within ibid Sch 17 para 2(1): see PARA 408 ante. For the meaning of 'penalty fare' see PARA 408 note 2 ante.

3 Ibid Sch 17 para 9(1)(a), (10). As to Greater London see PARA 29 ante.

4 As to the Secretary of State see PARA 12 note 2 ante. Orders made under ibid Sch 17 para 9 are local in nature and are not set out in this work. As to the making of orders generally see PARA 13 ante.

5 Ibid Sch 17 para 9(1)(b), (10). Where any services become qualifying services by virtue of an order under Sch 17 para 9(1)(b), any order which: (1) is contained in a statutory instrument made by the Secretary of State; (2) makes provision for or in connection with the imposition of penalty fares on passengers travelling on those services; and (3) is in force immediately before Sch 17 para 9 begins to apply to the services by virtue of the order under Sch 17 para 9(1)(b), may, so far as relating to those services, be revoked under Sch 17 para 9 as if it were an order under Sch 17 para 9(2) (see the text to notes 6-8 infra): Sch 17 para 9(9).

6 As to the Mayor of London see PARA 81 ante.

7 Ie the Greater London Authority Act 1999 Sch 17.

8 Ibid Sch 17 para 9(2). An order under Sch 17 para 9(2), and any order revoking, amending or re-enacting such an order, may contain such incidental, supplemental, consequential or transitional provision as may appear to the Mayor to be necessary or expedient: Sch 17 para 9(5). Orders under Sch 17 para 9(2) are not made by statutory instrument and accordingly are not recorded in this work.

9 Ibid Sch 17 para 9(3).

- 10 Ibid Sch 17 para 9(4), which is expressed to be subject to Sch 17 para 9(3) (see the text to note 9 supra).
- 11 Ibid Sch 17 para 9(6). The amount recovered must not exceed £5,000 in the aggregate: Sch 17 para 9(6).
- 12 Ie under ibid Sch 17 para 9(2): see the text to notes 6-8 supra.
- 13 Ibid Sch 17 para 9(7).
- 14 Ibid Sch 17 para 9(8).

## **UPDATE**

### **408-500 Penalty Fares**

The Greater London Authority Act 1999 Sch 17 (amended by the Transport for London Act 2008 ss 27, 28) applies, with modifications, to services for the carriage of passengers by tram on Tramlink: see the Croydon Tramlink (Penalty Fares) Order 2003, SI 2003/1614.

Halsbury's Laws of England/LONDON GOVERNMENT (VOLUME 29(2) (REISSUE))/4A.  
MISCELLANEOUS PROVISIONS RELATING TO LONDON/500A. Flood defence in the London area.

## **4A. MISCELLANEOUS PROVISIONS RELATING TO LONDON**

### **500A. Flood defence in the London area.**

The general flood defence and land drainage powers conferred by the Water Resources Act 1991 and the Land Drainage Act 1991 on the Environment Agency and local authorities<sup>1</sup> now apply to watercourses within the former London excluded area<sup>2</sup>, depending on the status of those watercourses<sup>3</sup>. In addition to those powers, the Environment Agency also has power to execute and maintain flood defence works with respect to certain rivers in the London area by virtue of various local enactments<sup>4</sup>.

In the exercise of powers conferred by the Thames Barrier and Flood Prevention Act 1972<sup>5</sup>, the former Greater London Council carried out works<sup>6</sup> to provide a flood barrier<sup>7</sup> with movable flood gates across the River Thames in Woolwich Reach<sup>8</sup>. Responsibility for the operation of this flood barrier has now passed to the Environment Agency<sup>9</sup>. Powers are conferred on the Environment Agency to use and operate the barrier and, in particular, to close the barrier gates<sup>10</sup> for such periods as the Agency considers necessary or desirable<sup>11</sup>:

645 (1) at any time when it appears to the Agency that there is reason to believe that unless the gates are closed floods or inundations may be caused by the overflow of the river upstream of the barrier, or in any other case of emergency;

646 (2) for the purpose of:

5

7. (a) enabling experiments to be carried out for or in connection with the development of the most effective use of the barrier for defence against floods or inundations;
8. (b) testing the barrier;
9. (c) exercising and instructing staff in the operation and control of the barrier;
10. (d) maintaining, extending, enlarging, altering, replacing, repairing or renewing the specified barrier works<sup>12</sup>, or any part of them, on such occasions as may be reasonably necessary, or for the purpose of removing them<sup>13</sup>.

6

Under the 1972 Act the Agency also has power to carry out certain other sea defence works<sup>14</sup>.

A person who wilfully obstructs or impedes any person acting in the execution of the Thames Barrier and Flood Prevention Act 1972 or of any order or byelaw made under it, or in compliance with any notice or direction given under it, is guilty of an offence<sup>15</sup>. If no other penalty for that offence is provided by or under the 1972 Act, he is liable on summary conviction to a fine not exceeding level 3 on the standard scale<sup>16</sup>.

1 See WATER AND WATERWAYS vol 101 (2009) PARA 559 et seq. As to the Environment Agency see ENVIRONMENTAL QUALITY AND PUBLIC HEALTH vol 45 (2010) PARA 68 et seq.

2 As to the former 'London excluded area' see the Land Drainage Act 1976 s 116(1), defining the 'London excluded area' as so much of Greater London and of any area adjoining Greater London as did not, on 31 March 1986, lie, for the purpose of the exercise of land drainage functions, within the area of any water authority (definition substituted by the Local Government Act 1985 (Land Drainage Functions) Order 1986, SI 1986/208, art 5, Sch 1 para 5).



3 le depending on whether a watercourse is main river (in relation to which functions are exercisable by the Agency) (see WATER AND WATERWAYS vol 101 (2009) PARA 599), an 'ordinary watercourse' (see WATER AND WATERWAYS vol 101 (2009) PARA 573 NOTE 16), a metropolitan watercourse or a main metropolitan watercourse.

4 As to these local enactments and the rivers to which they apply see the Land Drainage Act 1976 s 105, Sch 5 paras 1, 2 (as amended). The Thames River (Prevention of Floods) Acts 1879 to 1962 now apply to whole of the tidal Thames in the former London excluded area and give the Environment Agency powers to approve, require the execution of and execute flood works for the protection of land from flooding by the River Thames in that area by virtue of the Land Drainage Act 1976 s 105, Sch 5 paras 2, 4(1)(b). The Agency may from time to time prepare a plan of the flood works which it considers should be executed under those Acts: see the Metropolis Management (Thames River Prevention of Floods) Amendment Act 1879 s 7 (amended by the Thames Barrier and Flood Prevention Act 1972 s 69(1)(iii); and applied to the Agency). If it does so, it must serve notice of the preparation of the plan upon the owners of premises liable under those Acts to provide for the execution of any such works and, with the notice, must provide owners with a plan, sections, estimates and information relating to any such works: see the Metropolis Management (Thames River Prevention of Floods) Amendment Act 1879 s 7 (as so amended and applied). Owners have the right to object within a period specified in the notice, and if an objection is made, the Agency may make such order as it thinks just: see s 7 (as so amended and applied). Owners of premises concerned are under a duty to execute such flood works as are to be executed on their premises: see s 6 (as so amended). If they default the Agency may execute the flood works at the owners' expense: see ss 13, 31 (s 31 amended by the Local Law (Greater London Council and Inner London Boroughs) Order 1965, SI 1965/540, Sch 1 para 18, Sch 3; and by the Thames Barrier and Flood Prevention Act 1972 s 69(1)(v); and applied to the Agency). Owners liable to provide for the execution of flood works on their premises have in addition a general duty to maintain and repair banks on their premises: see s 22 (as applied to the Agency). In certain circumstances, the Agency may require owners of premises, at the owners' expense, to execute within a specified period works of maintenance on banks certified after survey to be out of repair, dangerous or insufficient for effectual flood protection: see s 24 (amended by the Thames Barrier and Flood Prevention Act 1972 s 69(1)(iv); applied to the Agency). The Agency may also require owners of premises to carry out, at the owners' expense, temporary works at damaged banks: see the London County Council (General Powers) Act 1957 s 55 (amended by the Local Law (Greater London Council and Inner London Boroughs) Order 1965, SI 1965/540, Sch 3; applied to the Agency).

The enactments which may be collectively cited as the Thames River (Prevention of Floods) Acts 1879 to 1962 are the Metropolis Management (Thames River Prevention of Floods) Amendment Act 1879; the Metropolitan Board of Works (Various Powers) Act 1882 s 46 (as amended), s 47; the London County Council (General Powers) Act 1907 Pt VI (ss 41-49) (as amended); the London County Council (General Powers) Act 1929 Pt IX (s 51 (as amended), s 52) (see s 52(2)); the London County Council (General Powers) Act 1957 Pt VI (ss 53-61) (as amended) (see s 53(4)); the London County Council (General Powers) Act 1961 s 66 (see s 66(1)); and the London County Council (General Powers) Act 1962 s 29 (as amended) (see s 29(4)).

Flood works (other than those carried out by the Agency under the Water Resources Act 1991 or the Land Drainage Act 1991) may not be executed except in accordance with plans made by the Agency or approved by it: see the Metropolis Management (Thames River Prevention of Floods) Amendment Act 1879 s 5 (amended by the Thames Barrier and Flood Prevention Act 1972 s 69(1)(i); applied to the Agency). It is an offence to alter or interfere with the banks of the river without the consent of the Agency: see the Metropolis Management (Thames River Prevention of Floods) Amendment Act 1879 s 23 (amended by virtue of the Criminal Justice Act 1982 s 46); the London County Council (General Powers) Act 1907 s 43 (amended by virtue of the Criminal Justice Act 1982 ss 38, 46) (both applied to the Agency).

The Thames River (Prevention of Floods) Acts empower the Agency to exercise a general supervision over all banks of the River Thames, to inspect them and to supervise the execution of any flood works: see the London County Council (General Powers) Act 1929 s 51(1) (a)-(c) (amended by the Thames Barrier and Flood Prevention Act 1972 s 69(2)(a); applied to the Agency). The Agency also has powers under those Acts to execute emergency flood protection works: see the London County Council (General Powers) Act 1957 s 54(1) (applied to the Agency). Compensation may be payable for any damage caused by the execution of flood works under these provisions: see the Metropolis Management (Thames River Prevention of Floods) Amendment Act 1879 s 15 (amended by the Local Law (Greater London Council and Inner London Boroughs) Order 1965, SI 1965/540, Sch 3; applied to the Agency).

5 See the Thames Barrier and Flood Prevention Act 1972 s 18.

6 A certificate in accordance with *ibid* s 18(5)(b) that the barrier works (ie Works Nos 1-3 described in s 18(2)) had been completed and that the barrier gates were capable of being used was sealed by the council on 20 January 1984. The barrier was officially opened on 8 May 1984.

7 'The barrier' means the works authorised by or under *ibid* s 18, or any such works or any part of them, and includes any other works, conveniences and other things provided under Pt II (ss 5-54) (as amended), and the delineated lands or any part of them; and 'the delineated lands' means the lands delineated on the deposited plan and described in the deposited book of reference: s 3(1). As to the deposited plan see Preamble para 10.

8 The council could maintain and from time to time alter, extend, enlarge, repair, renew or remove the barrier or other works or conveniences: *ibid* s 18(4).

9 The Thames Barrier, and all other property held by the former Greater London Council for the purposes of the Thames Barrier and Flood Prevention Act 1972, vested, following the abolition of that council on 1 April 1986 (see the Local Government Act 1985 s 1(1)(a), (2)), in the former Thames Water Authority: see the Local Government Reorganisation (Property etc) Order 1986, SI 1986/148 art 20. The functions formerly exercisable by the council under the 1972 Act became exercisable by that authority: see the Thames Barrier and Flood Prevention Act 1972 (Amendment) Order 1986, SI 1986/227, art 2. That authority was subsequently abolished and its functions transferred to the National Rivers Authority (now abolished) and thence to the Environment Agency.

For certain purposes the Agency may from time to time dredge or deposit material on the bed of certain parts of the River Thames, and alter or interfere with the bed, banks, soil or foreshore of the river, and may take steps to preserve access to premises: see the Thames Barrier and Flood Prevention Act 1972 s 25 (as amended) (applied to the Agency). Without prejudice to any requirement imposed on the Agency by the provisions relating to the use and operation of the barrier (ie s 35), the Agency may temporarily close the river or any part of it to navigation in executing any works or things authorised in connection with the barrier: see s 27 (applied to the Agency). The Agency must mark tidal works by exhibiting lights and buoys and taking other reasonable steps for preventing danger to navigation and in certain circumstances may remove sunk, stranded or abandoned vessels or vessels left or moored in the river without lawful authority: see ss 36, 37 (applied to the Agency). The Agency may admit members of the public to specified parts of the barrier, may charge for admission and may provide restaurants and other ancillary facilities and services: see s 39 (applied to the Agency).

10 'The barrier gates' means the movable flood gates forming part of the works authorised by or under *ibid* s 18: s 3(1). References to the closing of these gates are to be construed (except as otherwise provided) as references to the raising or lowering, as the case may be, of all or any of the gates from the positions in which they are normally housed so as to form a barrier across the whole or part of the river and references to the reopening of the gates are to be construed accordingly: s 3(5).

11 In and for the purpose of determining, in any case, when or at what state of the tide, and for how long, the gates are to be closed, and when or at what state of the tide they are to be reopened, the Agency must comply with any directions for that purpose given, from time to time, by the Secretary of State: *ibid* ss 3(1), 35(1) proviso (iii) (as applied to the Agency). Subject to complying with any such directions (which must prevail), the Agency must (1) have proper regard to the need to minimise any risk of danger to life or damage to property from overflow of the river downstream of the barrier; and (2) subject to head (1) *supra*, use its best endeavours to secure that the minimum obstruction, delay or interference is caused to vessels which may be using or intending to use the river and that the minimum interference is caused to persons who may be using or intending to use the river for the purposes of trade and business (including the use of river water for cooling purposes): s 35(1) proviso (i), (ii) (as so applied). As to compensation payable by the Agency, in certain cases, in respect of damage caused or contributed to by the closing of the barrier gates see s 44 (as so applied).

12 *Ie* Works Nos 1-3 described in *ibid* s 18(2). These basically comprise flood barriers, gates, sills and access bridges in the boroughs of Newham and Greenwich.

13 *Ibid* s 35(1)(a)-(e) (as applied to the Agency: see NOTE 1). The gates may be closed for no other purpose, and they may be so closed notwithstanding that the river or any part of it will thereby be closed to navigation and that the passage of vessels may be obstructed, delayed or interfered with: s 35(1). However, the power to close the gates under head (2) in the text must be exercised in accordance with a scheme made by the Agency and approved by the Secretary of State; and the power to close the barrier gates under head (2)(c) or (2)(d) in the text may not be exercised so as to close the river completely to navigation at any time: see s 35(4), (5) (applied to the Agency). The Agency is required to give to certain bodies notice of its intention to close and reopen the gates: see s 35(2) (applied to the Agency). The Agency may make and enforce byelaws for or in connection with the operation, regulation, control and protection of the barrier: see s 41 (as amended; applied to the Agency). Any person who, without lawful authority or excuse, closes or opens, or attempts to close or open, the barrier gates or any of them, or in any other way interferes, or attempts to interfere, with the barrier or its operation is guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding six months or a fine not exceeding the prescribed sum, or to both, or on conviction on indictment to imprisonment for a term not exceeding 14 years or a fine, or to both: see s 40 (as amended). as to the prescribed sum see PARA 376 NOTE 7.

The Environment Agency may by notice to the occupier of land on which there is any opening furnished with flood dams and which is situated in the former London excluded area upstream or downstream of the barrier or in the area of the former Essex River Authority, require the closure of the dams at specified times throughout specified periods, and generally require him to keep the dams closed whenever necessary to prevent floods or inundations from the overflow of the river or from the sea or other tidal water through the opening which is furnished with the dam. If the notice is not complied with, any person authorised by the Agency may enter on the land on which the opening is situated and close the flood dams or cause them to be closed, and the occupier of the land is guilty of an offence and liable on summary conviction to a fine not exceeding the

prescribed sum. If the opening in question is situated downstream, the occupier of the land is alternatively liable or on conviction on indictment to a fine, or to imprisonment for a term not exceeding two years, or to both: see s 68 (as amended), s 68A (as added) (both applied to the Agency).

14 See *ibid* ss 55-60 (as amended; applied to the Agency).

15 *Ibid* s 70(a), (b).

16 *Ibid* s 70 (amended by virtue of the Criminal Justice Act 1982 ss 38, 46). As to the standard scale see PARA 87 note 6. Where a body corporate is guilty of any offence under that Act, or under any byelaws made under or in pursuance of it, and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he as well as the body corporate is guilty of that offence and is liable to be proceeded against and punished accordingly: Thames Barrier and Flood Prevention Act 1972 s 71(1). Where the affairs of a body corporate are managed by its members, this provision applies to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate: s 71(2).

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MISCELLANEOUS PROVISIONS RELATING TO LONDON/500B. In general.

### **500B. In general.**

Statutory water undertakers<sup>1</sup> are generally regulated by the Water Industry Act 1991<sup>2</sup>, but local statutory provisions<sup>3</sup> having effect in the metropolitan area<sup>4</sup> before 1 April 1974 may continue to apply to the statutory undertaker<sup>5</sup>. Such local provisions are particularly relevant in determining the required pressure of the water supply<sup>6</sup>, and the ownership of service pipes<sup>7</sup>. Each of the former metropolitan water companies, except the Lambeth Waterworks Company, had powers in its special Act enabling the company to require the provision of storage in its area. These provisions have been inherited, as local statutory provisions, by the water undertaker. It is a condition of the right to a supply from the undertaker that the consumer provides and lays down necessary and proper apparatus, which would appear to include a storage cistern when required<sup>8</sup>.

Local provisions also apply to the laying of pipes and mains in streets<sup>9</sup>, domestic and non-domestic supplies<sup>10</sup> and the expenses of disconnections<sup>11</sup>.

Whilst many local statutory provisions applied to the former metropolitan water companies generally<sup>12</sup>, the special legislation of each of the former companies, where it continues to apply, applies only in relation to the limits of supply of the company concerned.

In so far as they have not been superseded by later enactments, the Waterworks Clauses Acts 1847<sup>13</sup> and 1863<sup>14</sup> continue to have effect in the metropolitan area to the extent that they are incorporated in unrepealed special Acts<sup>15</sup>.

1 As to the meaning of 'water undertaker' see WATER AND WATERWAYS vol 100 (2009) PARA 137 NOTE 4.

2 See WATER AND WATERWAYS vol 100 (2009) PARA 134 et seq. Subject to any provision to the contrary which is contained in the Water Act 1989 s 190(2), Sch 26 or in the Water Consolidation (Consequential Provisions) Act 1991, nothing in any local statutory provision passed or made before 1 September 1989 is to be construed as relieving the undertaker from any liability arising by virtue of the Water Industry Act 1991 in respect of any act or omission occurring on or after that date: Water Industry Act 1991 s 220.

3 For the meaning of 'local statutory provision', and as to the power to amend or repeal such provisions in order to bring them into line with general legislation see PARA 10.

4 The metropolitan area is the area comprising the limits of supply of the former Metropolitan Water Board: see the Metropolis Water Act 1902 s 1(1), Sch 2.

5 See the Water Act 1973 s 34(2), Sch 6 Pt II (prospectively repealed by the Water Act 1989 s 190(3), Sch 27 Pt II); and the Water (Local Statutory Provisions) (Consequential Amendments) Order 1989, SI 1989/1380. Local statutory provisions which are continued, continue to apply only to the area to which they applied before 1 April 1974.

6 See the Metropolis Water Act 1871 s 7 (as amended) which requires the undertaker to provide a constant supply of pure and wholesome water throughout the metropolitan area, or throughout such parts as are required, sufficient for the domestic purposes of the inhabitants, constantly laid on at such pressure as will make such water reach the top storey of the highest houses within such water limits. A private person cannot enforce the penalty for noncompliance under s 16 (as amended): *Kyffin v East London Water Co* [1896] 1 QB 446, DC.

7 So much of every service pipe existing at the date of transfer (in general, 1 April 1933) as then constituted a communication pipe was transferred to the Metropolitan Water Board, and has now passed to the water undertaker. The rights and obligations of the undertaker with reference to the maintenance, repair, renewal and removal of pipes laid down by it extend and apply to all communication pipes transferred to the former Metropolitan Water Board as if those communication pipes had been laid down by the undertaker: Metropolitan Water Board Act 1932 s 3. All communication pipes together with the necessary and proper apparatus provided

and laid down by the undertaker after 1 April 1933 belong to the undertaker, and the undertaker's rights and obligations with reference to the maintenance, repair, renewal and removal of pipes laid down by it extend and apply to such communication pipes and apparatus: s 4(3). No person other than the undertaker is responsible for the maintenance, repair, renewal and removal of communication pipes: see s 9(1). Supply pipes are maintainable by the owners or occupiers: see the Metropolitan Water Board (Charges) Act 1907 s 8 (amended by the Thames Water Authority (Local Enactments) Order 1985, SI 1985/914, art 3, Schedule).

'Supply pipe' means so much of any service pipe as is not a communication pipe; 'communication pipe' means so much of any service pipe as extends from a service main of the undertaker to (1) any stopcock fitted on that pipe; or (2) where no stopcock is fitted, the point at which that pipe passes the boundary of the street or at which the pipe enters any premises in or under the street, whichever of those points is nearer to the service main, and includes the ferrule at the junction of the pipe with the service main and any stopcock, together with any box containing it and any cover to such box; 'stopcock' means a stopcock which is fitted on a service pipe and every part of which is situated in a street; and 'service pipe' means so much of any pipe for conveying water from a service main of the undertaker to any house, building or premises as is subject to water pressure from that main: Metropolitan Water Board Act 1932 s 2. These definitions apply for the purposes of the Metropolitan Water Board (Charges) Act 1907 by inference by virtue of the Metropolitan Water Board Act 1932 s 12(a). 'Street' means any square, court, alley, highway, lane, road, thoroughfare or passage within the limits of supply or any place within those limits laid out for any such purpose, whether or not it is dedicated to public use; and the 'limits of supply' means the limits within which the undertaker is for the time being authorised to supply water: s 2.

8 See the Metropolitan Water Board (Charges) Act 1907 s 8 (as amended); and WATER AND WATERWAYS vol 100 (2009) PARA 334 (domestic supplies). See also the Metropolitan Water Board (Charges) Act 1921 s 14(1); and WATER AND WATERWAYS vol 100 (2009) PARA 347 (non-domestic supplies).

9 See WATER AND WATERWAYS vol 101 (2009) PARA 462.

10 See NOTE 8.

11 See WATER AND WATERWAYS vol 100 (2009) PARA 355 .

12 Eg the Metropolis Water Acts 1852 and 1871.

13 The special Acts of the former metropolitan water companies incorporated provisions of the Waterworks Clauses Act 1847 (repealed: see NOTE 15) and extended those provisions to the whole of their undertakings.

14 The Waterworks Clauses Act 1863 (repealed: see NOTE 15) was applied and extended to the undertaking of the former Metropolitan Water Board by the Metropolitan Water Board Act 1913 s 4.

15 The Waterworks Clauses Acts 1847 and 1863 were repealed by the Water Act 1945 s 62, Sch 5 (repealed). As to the effect of the repeal of an enactment incorporated with another Act see STATUTES vol 44(1) (Reissue) PARA 1312.

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MISCELLANEOUS PROVISIONS RELATING TO LONDON/500C. Navigation on the River Thames  
below Teddington

## **500C. Navigation on the River Thames below Teddington**

### **1. Duties of masters and owners.**

A master<sup>1</sup> who navigates his vessel<sup>2</sup> on the Thames<sup>3</sup> without due care and attention<sup>4</sup> or in a manner likely to injure or endanger persons, other vessels, the banks of the Thames (whether above or below mean high-water level<sup>5</sup>) or any structure or installation in or beside the Thames<sup>6</sup> is guilty of an offence and liable on summary conviction to a fine not exceeding the statutory maximum or on conviction on indictment to a fine<sup>7</sup>.

The owner<sup>8</sup> or master of a vessel adrift in the Thames or in the docks<sup>9</sup> is also guilty of an offence<sup>10</sup> unless he proves that the vessel did not become adrift as the result of any neglect or default on his part<sup>11</sup>.

The master of a vessel must not carry in that vessel in the Thames a number of persons greater than the vessel is licensed by the Port of London Authority as fit to carry, or, if it is not so licensed, than it is reasonably fit to carry<sup>12</sup>.

1 'Master', in relation to a vessel, means any person having or taking the command, charge or management of the vessel for the time being: Port of London Act 1968 s 2(1).

2 'Vessel' means every description of vessel, however propelled or moved, and includes any thing constructed or used to carry persons or goods by water and a seaplane on or in the water, a hovercraft and a hydrofoil vessel: *ibid* s 2(1). Nothing in Pt VII (ss 108-138) (as amended) extends to a vessel belonging to or employed in the service of Her Majesty or to any present or future moorings of or for any such vessel: s 186(3). 'Mooring' includes anchoring: s 2(1).

3 'The Thames' means so much of the river Thames, the Thames estuary, rivers, streams, creeks, watercourses and the sea as is within the limits described in *ibid* Sch 1 para 2: s 2(1). As to the landward limit see WATER AND WATERWAYS vol 101 (2009) PARA 712.

4 Port of London Act 1968 s 108(a).

5 'Mean high-water level' means the level which is half way between mean high-water springs and mean high-water neaps: *ibid* s 2(1).

6 *Ibid* s 108(b).

7 *Ibid* ss 108, 206 (s 108 amended by the Port of London Act 1982 s 3(2), Sch 1 Pt II para 4). As to the statutory maximum see CRIMINAL LAW, EVIDENCE AND PROCEDURE vol 11(4) (2006 Reissue) PARA 1674.

8 'Owner' in relation to a vessel includes the charterer: Port of London Act 1968 s 2(1).

9 'Docks' means the docks and canals belonging to or administered by the Port of London Authority and includes locks, basins and cuts forming part of those docks or canals, and 'dock' and 'canal' are to be construed accordingly: *ibid* s 2(1). As to the Port of London Authority see PORTS AND HARBOURS vol 36(1) (2007 Reissue) PARA 623.

10 *Ibid* s 109(1). He is liable on summary conviction to a fine not exceeding level 3 on the standard scale: ss 109(1), 206 (s 109(1) amended by the Port of London Act 1982 s 3(1), Sch 1 Pt I; and by virtue of the Criminal Justice Act 1982 s 46). As to the standard scale see PARA 87 note 6.

11 Port of London Act 1968 s 109(2).

12 *Ibid* s 110(1). A master who contravenes this provision is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale: ss 110(3), 206 (s 110(3) amended by the Port

of London Act 1982 Sch 1 Pt II para 5; and by virtue of the Criminal Justice Act 1982 s 46). As to licensing see ss 124-129 (substituted by the Port of London Authority Harbour Revision Order 2003, SI 2003/2556, art 4). The Port of London Act 1968 s 110 did not apply to the master of a vessel for which there was in force a passenger steamer's certificate issued under the Merchant Shipping Act 1894 s 274 (repealed): Port of London Act 1968 s 110(2).

## 2. General directions as to vessels.

The Port of London Authority<sup>1</sup> may<sup>2</sup> give general directions<sup>3</sup> for the purpose of promoting or securing conditions conducive to the ease, convenience or safety of navigation in the Thames<sup>4</sup>. Such directions may apply to all vessels or designated vessels, to the whole of the Thames or a designated part and at all times or at designated times<sup>5</sup>. These directions may be revoked or amended<sup>6</sup>.

The authority may also give general directions<sup>7</sup> applicable to all vessels, or to a specified class of vessels, at the docks<sup>8</sup>, for the purpose of ensuring the safety of vessels at the docks, preventing injury to persons at, or to property at, or forming part of the docks or for securing the efficient conduct of the business carried on at the docks<sup>9</sup>.

The giving of general directions or a special direction<sup>10</sup> does not diminish or in any other way affect the responsibility of the master of the vessel to which the direction is given in relation to his vessel, persons on board, its cargo or any other person or property<sup>11</sup>.

The master of a vessel who fails to comply with a general or special direction is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale<sup>12</sup>.

1 As to the Port of London Authority see PORTS AND HARBOURS vol 36(1) (2007 Reissue) PARA 623.

2 This power is subject to the agreement of the competent harbour authority (see SHIPPING AND MARITIME LAW), and the Chamber of Shipping of the United Kingdom: Port of London Act 1968 s 111(1).

3 See *ibid* s 2(1).

4 See *ibid* s 111(1) (amended by the Port of London Authority Harbour Revision Order 2003, SI 2003/2556, art 3). As to the meaning of 'the Thames' see PARA 500C.1 NOTE 3. Such directions may designate areas, routes or channels which vessels are to use for mooring or movement, may secure that vessels only move at certain times or during certain periods, may prohibit entry into or movement in the Thames by vessels at times of poor visibility or entry into the Thames of a dangerous vessel, may require vessels which fall outside the scope of any formal risk assessment in respect of safety of navigation carried out by the Port Authority and currently valid to submit to a specific risk assessment before entering the Thames or any specified part of the Thames, and may require the master of a vessel to give a harbourmaster information relating to the vessel which is reasonably required by the harbourmaster in order to effect these objects: see the Port of London Act 1968 s 111(1)(a)-(d) (as so amended). For the meaning of 'master' see PARA 500C.1 NOTE 1. 'Harbourmaster' means a person appointed by the authority to be a harbourmaster, and includes the deputies and assistants of a person so appointed: s 2(1). For the meaning of 'vessel' see PARA 500C.1 NOTE 2.

5 See *ibid* s 111(2)(a)-(c). Every direction must specify the extent of its application: s 111(2). The authority must publish in Lloyd's List or some other shipping newspaper notice of a general direction, stating where a copy of the direction may be inspected (see s 114(1)); and in any emergency, notice of a general direction may be given in any manner the harbourmaster, dock manager or dockmaster considers appropriate (s 114(2)). 'Dock manager' means a person appointed by the authority to be a dock manager, and includes the deputies and assistants of a person so appointed; and 'dockmaster' means, in relation to a dock, a person appointed by the authority to be a dockmaster and, in relation to a canal, a person so appointed to be a canal master or canal ranger, and includes the deputies and assistants of persons so appointed: s 2(1). The provisions relating to general and special directions do not apply in the Medway approach area, and areas off Southend-on-Sea and Sheerness: see s 187(1), Sch 8.

6 *Ibid* s 111(3). Any amendments are subject to the agreement of the competent harbour authority and the Chamber of Shipping of the United Kingdom (s 111(3)); and notice of the amendments must be published (see s 114; and NOTE 5).

7 See *ibid* s 2(1).

8 For the meaning of 'docks' see PARA 500C.1 NOTE 9. 'Vessel at a dock' includes a vessel entering or about to enter a dock and a vessel leaving or having just left a dock: *ibid* s 113(4).

9 *Ibid* s 113(1). Such directions may relate to the movement, berthing or mooring of a vessel, the dispatch of its business at the dock, the disposition or use of its appurtenances or equipment, the use of its motive power, the embarking or landing of passengers, the loading or discharging of cargo, fuel, water or ship's stores and the use of ballast: s 113(1)(a)-(g). As to the publication of notices of general directions see NOTE 5.

10 As to special directions see PARA 500C.3.

11 Port of London Act 1968 s 116.

12 *Ibid* ss 117(1), 206 (amended by the Port of London Act 1982 s 3(1), Sch 1 Pt I; and by virtue of the Criminal Justice Act 1982 s 46). It is a defence for a master of a vessel charged with such an offence to prove that he had reasonable ground for supposing that compliance with the direction in question would be likely to imperil his vessel or that in the circumstances compliance was impracticable: Port of London Act 1968 s 117(2). As to the standard scale see PARA 87 NOTE 6.

### 3. Special directions as to vessels.

A special direction<sup>1</sup> may be given by a harbourmaster<sup>2</sup> to a vessel<sup>3</sup> anywhere in the Thames<sup>4</sup>, and by a dockmaster<sup>5</sup> to a vessel in a designated area<sup>6</sup>. This may be for the purpose of requiring a vessel to comply with a requirement made in or under a general direction<sup>7</sup>, or for regulating the movement, mooring or unmooring of a vessel<sup>8</sup>, or for regulating the manner in which a vessel takes in or discharges cargo, fuel, water or ship's stores<sup>9</sup>.

A dock manager<sup>10</sup> or dockmaster may give a special direction<sup>11</sup> requiring the removal from a dock of a vessel if:

- 647 (1) it is on fire<sup>12</sup>;
- 648 (2) it is in a condition where it is liable to become immobilised or waterlogged, or to sink<sup>13</sup>;
- 649 (3) it is making an unlawful or improper use of the dock<sup>14</sup>;
- 650 (4) it is interfering with the use of the dock by other vessels, or is otherwise interfering with the proper use of the dock or the dispatch of business there<sup>15</sup>; or
- 651 (5) the removal is necessary to enable maintenance or repair work to be carried out to the dock or to an adjacent part of the port premises<sup>16</sup>.

He may also give a direction to a vessel at the docks<sup>17</sup> (a) for any purpose for which a general direction<sup>18</sup> may be given<sup>19</sup>; and (b) requiring a vessel to comply with a general direction<sup>20</sup>.

Failure to comply with a special direction is an offence<sup>21</sup>. Without prejudice to any other remedy available to the Port of London Authority, if a special direction is not complied with within a reasonable time, the person making the direction may, where practicable, put persons aboard the vessel to carry out the direction or may otherwise cause the vessel to be handled in accordance with the direction<sup>22</sup>. If there is no one on board a vessel to attend to a special direction, the person making the direction may proceed as if the direction had been given and not complied with<sup>23</sup>.

1 See the Port of London Act 1968 s 2(1). A special direction may be given in any manner considered appropriate by the person giving it: s 115.

2 For the meaning of 'harbourmaster' see PARA 500C.2 NOTE 4.

3 For the meaning of 'vessel' see PARA 500C.1 NOTE 2.

4 Port of London Act 1968 s 112(1)(a). As to the meaning of 'the Thames' see PARA 500C.1 NOTE 3.



5 For the meaning of 'dockmaster' see PARA 500C.2 NOTE 5.

6 Port of London Act 1968 s 112(1)(b), which refers to an area in a part of the Thames adjacent to a dock (defined in PARA 783 NOTE 9) and designated by the Port of London Authority as an area in which the power to give directions under s 112 is exercisable by a dockmaster. Notice of the designation must be published: see s 114(1); and PARA 500C.2 NOTE 5. As to the Port of London Authority see PORTS AND HARBOURS vol 36(1) (2007 Reissue) PARA 623 et seq.

7 Ibid s 112(2)(a). As to general directions see PARA 500C.2; and as to areas in which these provisions do not apply see PARA 500C.2 NOTE 5.

8 Ibid s 112(2)(b).

9 Ibid s 112(2)(c).

10 For the meaning of 'dock manager' see PARA 500C.2 NOTE 5.

11 See the Port of London Act 1968 s 2(1).

12 Ibid s 113(2)(a).

13 Ibid s 113(2)(b).

14 Ibid s 113(2)(c).

15 Ibid s 113(2)(d).

16 Ibid s 113(2)(e).

17 For the meaning of 'vessel at a dock' see PARA 500C.2 NOTE 8.

18 Ie a direction under the Port of London Act 1968 s 113(1): see PARA 500C.2.

19 Ibid s 113(3)(a).

20 Ibid s 113(3)(b).

21 The penalty on summary conviction is a fine not exceeding level 5 on the standard scale: see PARA 500C.2. As to the effect of a special direction on the responsibility of a master see PARA 500C.2.

22 Port of London Act 1968 s 118(1). Expenses incurred by the authority in the exercise of these powers are recoverable as if they were a charge of the authority in respect of the vessel: s 118(3).

23 Ibid s 118(2). These powers must not be exercised in relation to a vessel other than a lighter unless the master cannot be found after reasonable inquiry (s 118(2) proviso (a)); and in relation to a lighter unless it is obstructing the dock or otherwise interfering with navigation (s 118(2) proviso (b)). 'Lighter' includes a barge or other like craft for carrying goods, and 'goods' includes all tangible personal property of any kind: s 2(1).

#### **4. Removal of obstructions and similar hazards to navigation.**

After giving notice to the owner<sup>1</sup>, the Port of London Authority<sup>2</sup> may cause to be raised, removed, blown up or otherwise destroyed a vessel<sup>3</sup> sunk, stranded or abandoned in the Thames<sup>4</sup> or the docks<sup>5</sup> which in the opinion of the harbourmaster<sup>6</sup> or dockmaster<sup>7</sup> is or is likely to become an obstruction, impediment or danger to the safe and convenient navigation or use of the Thames or the docks or any part of it or them<sup>8</sup>.

The authority may also remove anything other than a vessel which is causing, or likely to become, an obstruction or impediment in any part of the Thames or in a dock<sup>9</sup>, and anything other than a vehicle which is causing, or likely to become, an obstruction or impediment to the proper use of the towpath on the Thames<sup>10</sup>.

After giving notice<sup>11</sup>, the authority may remove any projection<sup>12</sup> which is a danger to the navigation of the Thames and may recover its expenses of doing so from the owner or occupier of the land on which the projection was situated<sup>13</sup>. If the projection is an obstruction and inconvenience to navigation but not a danger, the authority may require the owner or occupier

of the land to remove it<sup>14</sup>. The authority may also by notice<sup>15</sup> require the owner or occupier of a landing place or embankment which, by reason of its insecure condition or need of repair, is or is likely to become dangerous to persons or vessels using the Thames, injurious to the condition of the Thames as a navigable waterway or a hindrance to navigation, to remedy its condition<sup>16</sup>.

1 Except in case of emergency, the Port of London Authority must first give the owner not less than 48 hours' notice of its intention (Port of London Act 1968 s 120(4)) or, if he is unknown or his place of business or abode is outside the United Kingdom, must display the notice at its head office (s 120(5)). During the currency of the notice the owner may give a written counter-notice that he wishes to dispose of the vessel himself, in which case he must be given seven days in which to do so, and any additional time during which he proceeds diligently with the disposal: see s 120(4). For the meaning of 'owner' see PARA 500C.1 NOTE 8; and for the meaning of 'United Kingdom' see PARA 26 NOTE 2.

2 As to the Port of London Authority see PORTS AND HARBOURS vol 36(1) (2007 Reissue) PARA 623.

3 For the meaning of 'vessel' see PARA 500C.1 NOTE 2.

4 As to the meaning of 'the Thames' see PARA 500C.1 NOTE 3.

5 For the meaning of 'docks' see PARA 500C.1 NOTE 9.

6 For the meaning of 'harbourmaster' see PARA 500C.2 NOTE 4.

7 For the meaning of 'dockmaster' see PARA 500C.2 NOTE 5.

8 Port of London Act 1968 s 120(1). The vessel or anything associated with it may be sold and the proceeds applied towards the authority's expenses: see s 120(2). As to the recovery of expenses see s 120(3), (6), (7) (as amended). These provisions are modified in relation to the Port of Tilbury: see the Port of Tilbury Transfer Scheme 1991 Sch 4 para 8.

9 See the Port of London Act 1968 s 121(1)(a). If the owner can be identified the authority must give notice to him, and if he does not take possession or if he is not identified the object vests in the Authority: see s 121(2), (5). Anything perishable may be sold: see s 121(3). As to reimbursement of expenses from the proceeds of sale see s 121(3), (4). The authority may not remove anything placed by a local authority or statutory undertakers under statutory powers or under the provisions of a consent or licence given or issued by the authority under those powers: see s 121(6). 'Local authority' means the Common Council of the City of London or a county, district or London borough council or an authority established under the Local Government Act 1985 s 10 (as amended) (joint arrangements for waste disposal functions); and 'statutory undertakers' means a person authorised by statute to carry on any undertaking for the supply of electricity, gas or water: Port of London Act 1968 s 121(7) (amended by the Local Government Reorganisation (Miscellaneous Provision) Order 1986, SI 1986/1, art 3(2)(c)). This reference to statutory undertakers (which includes the former Thames Water Authority) must now be construed in the light of the privatisation of the industries concerned: see FUEL AND ENERGY vol 19(2) (2007 Reissue) PARAS 776 et seq, 1033 et seq.

10 See the Port of London Act 1968 s 121(1)(b). See also NOTE 9. These provisions are modified in relation to the Port of Tilbury: see the Port of Tilbury Transfer Scheme 1991 Sch 4 para 9.

11 As to the owner or occupier of the land, if it is reasonably practicable to do so: Port of London Act 1968 s 122(2)(b).

12 'Projection' means anything which projects over the Thames and includes stairs and any tree, bush or other plant but does not include any such thing authorised by or under statute or by a works licence to be placed or constructed: *ibid* s 122(1). 'Works licence' means a licence to carry out works in, on or under land belonging to the Port of London Authority: see ss 2(1), 66(1); and PARA 500C.5.

13 *Ibid* s 122(2)(a). See also s 122(6); and NOTE 14.

14 See *ibid* s 122(3)(a). The notice must have annexed to it a copy of s 122: s 122(4). A person aggrieved by the notice may appeal to a magistrates' court: s 122(5). If the owner or occupier fails to comply, the authority may remove the projection and recover its expenses: see s 122(3)(b). The provisions of s 122 are subject to the authority's duty to replace marked landing places (see s 84): s 122(6). For the meaning of 'person aggrieved' see JUDICIAL REVIEW vol 61 (2010) PARA 656; see also *Cook v Southend BC* [1990] 2 QB 1, [1990] 1 All ER 243, CA.

15 The notice must have annexed to it a copy of the Port of London Act 1968 s 123: s 123(3). A person aggrieved by the notice may appeal to a magistrates' court: s 123(4); and see NOTE 14.

16 See *ibid* s 123(1). If the person fails to comply he is guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale and a daily fine not exceeding £50, and the authority may carry out the work and recover the expenses: see ss 123(2)(a), 206 (s 123(2)(a) amended by the Port of London Act 1982 s 3(1), Sch 1 Pt I; and by virtue of the Criminal Justice Act 1982 s 46). The authority may carry out the work it considers necessary to remedy the condition of the landing place or embankment in question and may recover the expenses of doing so from the person on whom the notice was served as a debt in any court of competent jurisdiction: Port of London Act 1968 s 123(2)(b). As to the standard scale see SENTENCING AND DISPOSITION OF OFFENDERS vol 92 (2010) PARA 142.

## 5. Works on and control of the River Thames.

The Port of London Authority<sup>1</sup> may take such action as it considers necessary or desirable for or incidental to the improvement and conservation of the Thames<sup>2</sup> and Port of Tilbury London Ltd is under a duty to take such action<sup>3</sup>. The authority may cleanse, scour, cut, deepen, widen, dredge and improve the bed and banks of the Thames<sup>4</sup> and may take up and remove material from it<sup>5</sup>, and may lay down, maintain and operate in and over the Thames such works and equipment as are required for or in connection with the exercise of any of its functions<sup>6</sup>. However, before placing a buoy, beacon, light or other device designed to assist navigation it must obtain the approval of Trinity House<sup>7</sup>. With the appropriate consent<sup>8</sup> the authority may fill up, raise and reclaim creeks, inlets, bends, mud flats, sands and sloblands in and adjoining the Thames<sup>9</sup>. It may grant to other persons works licences to carry out, construct, place, alter, renew, maintain or retain works<sup>10</sup>, notwithstanding that they interfere with the public right of navigation or any other public right<sup>11</sup>, and may grant to other persons licences to cleanse, scour, cut, deepen, widen, dredge or take up or remove material from the bed and banks of the Thames<sup>12</sup>.

If there is injury to, or destruction or decay of, a tidal work<sup>13</sup>, the authority must forthwith lay down such buoys, exhibit such lights and take such other steps as are necessary for preventing danger to navigation<sup>14</sup>. Where a tidal work is abandoned or allowed to fall into decay, the authority may be required to repair, restore or remove it<sup>15</sup>. The authority must in any event exhibit on each tidal work every night from sunset to sunrise such lights, if any, and take such other steps as are necessary for preventing danger to navigation<sup>16</sup>.

The authority may construct, maintain and operate in the Thames such landing places as it thinks fit<sup>17</sup>. It may exclude the public from, or restrict public use of, a part of the Thames in an emergency, and to preserve public order, to allow or facilitate the carrying out of any public works affecting the Thames or adjoining land, to facilitate the safe and orderly conduct of a procession, boat race, regatta or similar event and to prevent accident to the spectators<sup>18</sup>. For the purpose of maintaining and improving the Thames as a navigable waterway or of improving the flow of water in it, the authority may abate or remove annoyances and nuisances in the river or on its banks<sup>19</sup>.

1 As to the Port of London Authority see PORTS AND HARBOURS vol 36(1) (2007 Reissue) PARA 623.

2 Port of London Act 1968 s 5(1)(b). As to the meaning of 'the Thames' see PARA 500C.1 NOTE 3.

3 See *ibid* s 5(1) (substituted in relation to the Port of Tilbury by the Port of Tilbury Transfer Scheme 1991 Sch 4 para 5).

4 'Bed of the Thames' denotes that portion of the river which in the ordinary and regular course of nature is covered by the waters of the river, extending from ordinary high-water mark on one side to that mark on the other side: see *Thames Conservators v Smeed, Dean & Co* [1897] 2 QB 334, CA, and the Port of London Act 1968 s 2(1), defining 'bed' in relation to the Thames as the bed, shore and banks of the Thames below mean high-water mark.

5 *Ibid* s 60(1). The material becomes the authority's property and may be used, sold, deposited or otherwise disposed of as the authority thinks fit (s 60(2)) although not so as to obstruct, impede or affect the operation of sewers, cables, electric lines, mains or pipes (see s 61(3)). The authority must, however, compensate persons whose property or works are damaged, including the Crown or any government department (see s 61(1)), and

before exercising these powers within 20 yards of the pier of a bridge over, or tunnel under, the Thames, a sewer or a submarine cable or electric line, main or pipe vested in any statutory electricity, gas or water undertakers the authority must give at least 14 days' notice in writing to the undertakers or other persons concerned of its intention to do so and stating the position and depth of the proposed dredging (see s 61(2)). The reference to 20 yards must now be construed as its metric equivalent of 18.29 metres (Units of Measurement Regulations 1995, SI 1995/1804, reg 3); and the reference to electricity, gas or water undertakers must now be construed in the light of the privatisation of those industries (see FUEL AND ENERGY vol 19(2) (2007 Reissue) PARAS 776 et seq, 1033 et seq). Works under the control of the Environment Agency or a drainage body are deemed to be vested in the Agency or that body: Port of London Act 1968 s 61(4) (amended by virtue of the Environment Act 1995 s 120(1), Sch 22 para 233(1)). As to the Environment Agency see ENVIRONMENTAL QUALITY AND PUBLIC HEALTH vol 45 (2010) PARA 68 et seq).

6 Port of London Act 1968 s 62(1).

7 Ibid s 62(2).

8 See ibid s 65 proviso. The authority may not exercise these powers in relation to any land not owned by it unless it first obtains the consent in writing of the owner; and may not exercise them in relation to any part of the Thames (1) in front of or adjoining land belonging to Her Majesty in right of the Crown or to a government department or held in trust for Her Majesty for the purposes of a government department and protected by s 186 (as amended) (Crown rights); (2) in front of land which is vested in any body by virtue of any provision made by or under the Local Government Act 1985 which immediately before 1 April belonged to the former Greater London Council and was acquired by its predecessors before 23 December 1920, without the consent in writing of the Crown Estate Commissioners, the government department or the body, as the case may be: Port of London Act 1968 s 65 proviso (amended by the Local Government Reorganisation (Miscellaneous Provision) Order 1986, SI 1986/1, art 3(2)(a)).

9 Port of London Act 1968 s 65. For that purpose the authority may place piles in the Thames and construct groynes, retaining walls and other works in or on the river bed and banks: s 65. No filling up, raising or reclaiming may, however, be carried out so as to obstruct or impede any work of or connected with the inspection or repair of any electric line, gas main or gas pipe, apparatus, building, structure or other work of any nature whatever belonging to or maintained by certain statutory undertakers ('undertakers' work') or so as to affect adversely the operation of any such work: s 195(1), (2). This reference to statutory undertakers must now be construed in the light of the privatisation of the relevant industries: see NOTE 5.

10 Works above mean high-water level (see PARA 500C.1 NOTE 5) which do not constitute or form part of an embankment, or project over the Thames or involve cutting its banks are not subject to these works licence provisions: ibid s 66(4).

11 See ibid s 66(1)(a). A works licence so granted for works in, under or over land belonging to the authority is deemed to confer on the holder of the licence such rights in, under or over the land as are necessary to enable the holder of the licence to enjoy its benefits: s 66(1)(b). Application for a works licence must be made in writing to the authority, accompanied by plans, sections and full particulars of the works to which it relates, and in granting the licence the authority may require modifications in the plans, sections and particulars so submitted: s 66(2). The licence may be given under the hand of a duly authorised officer of the authority (s 66(5)) for an agreed consideration or for a consideration assessed, in default of agreement, by an arbitrator (see s 67(1), (2) (amended by the Port of London Act 1982 s 7, Sch 2). The assessment of consideration must not be referred to an arbitrator until the other terms of the licence, or of any variation of it, have been agreed: Port of London Act 1968 s 67(3) (as so amended). If within three months from the date of making the application, the authority does not grant a licence in accordance with it, the authority is deemed to have refused the application: s 66(2). In the exercise of the powers of a works licence the holder must not damage or injuriously affect any undertakers' work (see NOTE 9): see ss 67(6), 195(1). Before granting to any person a works licence or a dredging licence to carry out works or dredging at, over, under or near to any undertakers' work, the authority must submit to the undertakers particulars of the proposed works or dredging and furnish them with such further particulars with respect to them as the undertakers may reasonably require; and upon the grant of such a licence the authority must supply to the undertakers to whom the notice is given a copy of the licence and of any conditions subject to which it is granted: s 195(4). Any difference which may arise between the authority and the undertakers under these provisions, other than a difference as to their meaning, is to be referred to and determined by an arbitrator: see s 195(5).

A works licence is not required for the carrying out, construction, placing, alteration, renewal, maintenance or retention of any work by the Environment Agency or a drainage body in exercise of functions under the Water Resources Act 1991 or the Land Drainage Act 1991: see the Port of London Act 1968 s 66(7) (amended by virtue of the Water Consolidation (Consequential Provisions) Act 1991 s 2(2), Sch 2 para 1(3); and the Environment Act 1995 Sch 22 para 233(1)). The British Waterways Board is not, however, exempt from the obligation to obtain a works licence in respect of any operation constituting works to which the Port of London Act 1968 s 66 (as amended) applies: see the British Waterways Act 1995 s 14. A person licensed by the authority under the Port of London Act 1968 s 66 (as amended) or s 73 (as amended) (see NOTE 12) to carry out works or dredging and raising of gravel, sand, ballast and other substances in, upon or from any part of the bed

of the Thames belonging to Her Majesty or a government department also requires the consent of the Crown Estate Commissioners or of the relevant government department: see s 74.

An applicant for a works licence who is aggrieved by the authority's refusal to grant the licence, or by any term upon which the authority proposes to grant it or by any modification made in the plans, sections or particulars submitted may appeal to the Secretary of State, as may the holder of such a licence who is aggrieved by its revocation or variation: see s 69 (as amended). No person may carry out, construct, place, alter, renew, maintain or retain works unless he is licensed to do so by a subsisting works licence and except on the terms and conditions, if any, on which it is granted and in accordance with the plans, sections and particulars approved: s 70(1). A person who contravenes this provision is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale and a daily fine of £50: ss 70(2), 206 (s 70(2) amended by the Port of London Act 1982 s 3(1), Sch 1 Pt I; and by virtue of the Criminal Justice Act 1982 s 46). In addition an offender may be required to remove or abate any works to which the contravention relates, and if he fails to do so the authority may do so and recover its expenses of so doing from him: see the Port of London Act 1968 s 70(3). As to the standard scale see PARA 87 NOTE 6. Section 70 (as so amended) or s 73 (as amended) (see NOTE 12) does not, however, apply to the carrying out, construction, placing, alteration, renewal, maintenance or retention by the undertakers of any electric line authorised under or by virtue of any enactment or make unlawful the carrying out by the undertakers in an emergency of any works not authorised by a works licence which are necessary for the protection of, or to ensure the efficient operation of, any undertakers' work (see NOTE 9), subject to any directions necessary for the protection of navigation from time to time given by the authority to the undertakers concerned: s 195(3)(a). If in an emergency the undertakers carry out any work or any dredging they must inform the authority as soon as practicable of the works or dredging being carried out: s 195(3)(b).

12 See *ibid* s 73(1). Such a licence is not required by the Environment Agency or a drainage body in exercise of its functions under the Water Resources Act 1991 or the Land Drainage Act 1991: Port of London Act 1968 s 73(6) (amended by virtue of the Water Consolidation (Consequential Provisions) Act 1991 Sch 2 para 1(3); and the Environment Act 1995 Sch 22 para 233(1)). Acting without a licence is an offence punishable on summary conviction with a fine not exceeding level 5 on the standard scale: see the Port of London Act 1968 ss 73(3), 206 (s 73(3) amended by the Port of London Act 1982, Sch 1 Pt I; and by virtue of the Criminal Justice Act 1982 s 46). The issue of such a licence does not confer statutory authority for the carrying out of the work covered by it: Port of London Act 1968 s 73(4). The holder of a dredging licence must not, in the exercise of the powers conferred by it, damage or injuriously affect any submarine telecommunications cable or any undertakers' work (see NOTE 9), or interfere with or adversely affect any such cable or work without the consent of the undertakers concerned: see s 73(5). See also NOTE 11.

13 'Tidal work' means so much of any work belonging to the authority as is on, under or over tidal waters or tidal lands below the level of mean high water springs: *ibid* s 2(1).

14 Port of London Act 1968 s 77(1). On failure to comply the authority is liable on summary conviction to a fine not exceeding the statutory maximum and on conviction on indictment to a fine: ss 77(2), 206 (s 77(2) amended by the Port of London Act 1982 s 3(2), Sch 1 Pt II para 2). As to the statutory maximum see CRIMINAL LAW, EVIDENCE AND PROCEDURE vol 11(4) (2006 Reissue) PARA 1674.

15 See the Port of London Act 1968 s 78.

16 *Ibid* s 80(1). On failure to comply the authority is liable to the penalties mentioned in note 14: see ss 80(2), 206 (s 80(2) amended by the Port of London Act 1982 Sch 1 Pt II para 3).

17 Port of London Act 1968 s 81(1). As to the disposal of landing places see s 81(2). If the authority removes, closes or permanently interferes with the public use of a landing place which was marked on 1 January 1967 by the authority as a free public landing place, it must provide another equally convenient free public landing place in lieu: s 84.

18 *Ibid* s 91(1). It may not, however, impose a permanent exclusion or restriction (s 91(2)), and must where practicable give notice of its intention to exercise these powers (s 91(3)).

19 *Ibid* s 92.

## 6. Byelaws.

The Port of London Authority<sup>1</sup> may make byelaws<sup>2</sup> for any of the following purposes:

- 652 (1) to secure the conservation and improvement of the Thames<sup>3</sup> as a harbour and navigable waterway and to promote ease and convenience of navigation<sup>4</sup>;

- 653 (2) for the regulation of vessels<sup>5</sup> in, and their entry into and departure from, the Thames, and to prescribe rules for navigation and the lights and signals to be exhibited or made by or for the benefit of vessels<sup>6</sup>;
- 654 (3) for prescribing parts of the Thames where vessels or a specified class of vessel may not moor, anchor or be secured<sup>7</sup> or which vessels of a specified class may not enter<sup>8</sup>;
- 655 (4) to regulate the use and to prevent the misuse of the authority's services and facilities<sup>9</sup>;
- 656 (5) to promote the safety of persons and vessels on the Thames<sup>10</sup>;
- 657 (6) to regulate the conduct of persons using the Thames or its banks or towpaths, whether for business, recreation or any other purpose<sup>11</sup>;
- 658 (7) to prohibit bathing in specified areas of the Thames<sup>12</sup>;
- 659 (8) to prevent nuisances in or beside the Thames<sup>13</sup>;
- 660 (9) to restrict advertising on or over the Thames<sup>14</sup>;
- 661 (10) to regulate the licensing<sup>15</sup> of vessels<sup>16</sup>;
- 662 (11) for regulating the equipment of vessels and requiring vessels to carry specified equipment in the interests of safety<sup>17</sup>;
- 663 (12) in relation to any vessels other than pleasure vessels, to impose requirements as to the standards of competence and experience required by persons navigating or working vessels, and requirements as to the number, competence and experience of its crew<sup>18</sup>;
- 664 (13) to impose fines on persons offending against the byelaws<sup>19</sup>.

Byelaws made for the purposes of heads (1) to (12) above may impose different requirements in relation to different vessels or types of vessels, different parts of the Thames and different types of activity or movement<sup>20</sup>.

- 1 As to the Port of London Authority see PORTS AND HARBOURS vol 36(1) (2007 Reissue) PARA 623.
- 2 The byelaws must be confirmed by the Secretary of State: see the Port of London Act 1968 ss 2(1), 168(1), (2) (s 168(2) amended by Marine and Coastal Access Act 2009 Sch 22 Pt 5). As to the mode of making the byelaws see Port of London Act 1968 s 168 (as amended). As to proof of byelaws see s 169. Byelaws may also be made as to port premises (see s 161) and watermen and lightermen (see s 164 (as substituted)).
- 3 As to the meaning of 'the Thames' see PARA 500C.1 NOTE 3.
- 4 Port of London Act 1968 s 162(1)(a).
- 5 For the meaning of 'vessel' see PARA 500C.1 NOTE 2.
- 6 Port of London Act 1968 s 162(1)(b).
- 7 Ibid s 162(1)(c)(i).
- 8 Ibid s 162(1)(c)(ii).
- 9 Ibid s 162(1)(d).
- 10 Ibid s 162(1)(e).
- 11 Ibid s 162(1)(f).
- 12 Ibid s 162(1)(g).
- 13 Ibid s 162(1)(h).
- 14 See ibid s 162(1)(i), (2) (as amended).
- 15 Ie for the purpose of ibid ss 124-129 (as substituted).

16 Ibid s 162(1)(j) (s 162(1)(j)-(l), (3), (4) added by the Port of London Authority Harbour Revision Order 2003, SI 2003/2556, art 5(1)).

17 Port of London Act 1968 s 162(1)(k) (as added: see NOTE 16).

18 Ibid s 162(1)(l) (as added: see NOTE 16). Byelaws made under head (12) in the TEXT may authorise the imposition of reasonable charges by the Port Authority for assessing standards of competence and experience and for issuing any relevant certificates and indorsements required by such byelaws: s 162(4) (as so added).

19 See ibid s 167(a) (substituted by the Port of London Act 1982 s 3(2), Sch 1 para 9). The maximum fine which may be imposed is on level 5 on the standard scale and a daily fine of £100: Port of London Act 1968 s 167(a) (as so substituted; amended by virtue of the Criminal Justice Act 1982 s 46). As to the standard scale see PARA 87 NOTE 6.

20 Port of London Act 1968 s 162(3) (as added: see NOTE 16).

## 7. Regulation of crowds.

With a view to maintaining order and securing the safety of the public, the Commissioner of the Metropolitan Police may give such orders as he thinks expedient for the purpose of regulating the passage of vessels<sup>1</sup> on such part of the Thames<sup>2</sup> as lies within his jurisdiction on any occasion when large crowds may assemble there<sup>3</sup>.

A superintendent, inspector or sergeant of a police force may enter a vessel the master of which refuses to comply with any such orders for the purpose of taking such measures as may be necessary for carrying into effect the objects of this provision<sup>4</sup>, and a person obstructing the entry of any such officer or impeding his efforts is guilty of an offence<sup>5</sup>.

1 For the meaning of 'vessel' see PARA 500C.1 NOTE 2.

2 As to the meaning of 'the Thames' see PARA 500C.1 NOTE 3.

3 Port of London Act 1968 s 119(1). If the master of a vessel disobeys a constable engaged in keeping order on such an occasion he is guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale: ss 119(2), 206 (s 119(2) substituted by the Port of London Act 1982 s 3(2), Sch 1 Pt II para 6; and amended by virtue of the Criminal Justice Act 1982 s 46). For the meaning of 'master' see PARA 500C.1 NOTE 1; and as to the standard scale see PARA 87 NOTE 6.

4 Port of London Act 1968 s 119(3)(a).

5 Ibid s 119(3)(b). He is liable on summary conviction to a fine not exceeding level 2 on the standard scale: ss 119(3)(b), 206 (s 119(3)(b) amended by the Port of London Act 1982 s 3(1), Sch 1 Pt I; and by virtue of the Criminal Justice Act 1982 s 46).

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MISCELLANEOUS PROVISIONS RELATING TO LONDON/500D. Navigation on the River Thames  
above Teddington

## **500D. Navigation on the River Thames above Teddington**

### **1. Meaning of 'Thames' for conservancy purposes.**

For most purposes of the Thames Conservancy Acts 1932 to 1972<sup>1</sup>, 'Thames' means so much of the Rivers Thames and Isis as is between the east side of the Town Bridge at Cricklade and the landward limit of the Port of London<sup>2</sup> and so much of the River Kennet as is between a line drawn across the river 70 yards (64 metres) eastward of the east side of the High Bridge at Reading and the River Thames, and all locks, cuts and works within those portions of those rivers<sup>3</sup>. However, for the purposes of the statutory provisions relating to rights of navigation<sup>4</sup> and the removal of obstructions and dangerous erections<sup>5</sup>, certain parts of the rivers are excluded<sup>6</sup>; while the Environment Agency has certain powers under the Thames Conservancy Act 1932 which are exercisable in the Thames below Teddington Lock<sup>7</sup>.

1 As to these Acts see WATER AND WATERWAYS vol 101 (2009) PARA 712.

2 As to this limit, below which the Port of London Authority has jurisdiction see the Port of London Act 1968 s 2(1), Sch 1 para 1. As to navigation on the Thames below this limit see PARA 500C.1 et seq. The Thames Conservancy Act 1932 s 4(a) (amended by the Thames Conservancy Act 1950 s 3), identifies this point, which lies a little way downstream from Teddington Lock, by reference to the parish boundary between Teddington and Twickenham as existing immediately before 1 April 1937. As to the Port of London Authority see PORTS AND HARBOURS vol 36(1) (2007 Reissue) PARA 623 et seq.

3 Thames Conservancy Act 1932 s 4 (as amended: see NOTE 2).

4 See PARA 500D.2 et seq.

5 As to the removal of obstructions etc see PARA 500E.2 et seq.

6 Thames Conservancy Act 1932 s 79(1) proviso (amended by virtue of the Environment Act 1995 s 120(1), Sch 22 para 233(1)). The following are deemed not to be part of the Thames for those purposes: all private artificial cuts for drainage or irrigation, all artificial inlets for moats, boathouses, ponds or other like private purposes, and all channels (1) made by agreement with the Environment Agency or its predecessors, the Conservators of the River Thames or the former commissioners acting for the Thames above Staines Bridge; or (2) which had lawfully existed as private channels for 20 years before 14 August 1885: Thames Conservancy Act 1932 s 79(1) proviso (as so amended). As to the Environment Agency see ENVIRONMENTAL QUALITY AND PUBLIC HEALTH vol 45 (2010) PARA 68 et seq.

7 See eg *ibid* s 55 (as amended); and PARA 500E.6.

### **2. General public rights and their exclusion.**

Subject to the provisions of the Thames Conservancy Acts 1932 to 1972<sup>1</sup>, all persons, whether for pleasure<sup>2</sup> or profit<sup>3</sup>, may go, be, pass and repass in vessels<sup>4</sup> over or upon any and every part of the Thames<sup>5</sup> through which Thames water flows, including all such backwaters, creeks, side channels, bays and inlets connected with it as form part of the river<sup>6</sup>. For purposes connected with the navigation on the River Thames or with any public works or uses or for the preservation of public order, the Environment Agency<sup>7</sup> may for a limited time exclude the public from specified portions of the river<sup>8</sup>.



Officers and servants of the Environment Agency must not give undue preference to or unnecessarily delay or obstruct any vessel passing through any lock or from one part of the Thames to another or in embarking, landing, loading or unloading persons or goods<sup>9</sup>.

1 As to these Acts see WATER AND WATERWAYS vol 101 (2009) PARA 712.

2 As to the registration of pleasure boats see WATER AND WATERWAYS vol 101 (2009) PARA 684.

3 As to the tolls on merchandise traffic on the Thames see the Thames Conservancy Act 1950 s 25, Sch 2 (amended by the Thames Conservancy Act 1972 s 12); the Environment Act 1995 s 43; and see generally ENVIRONMENTAL QUALITY AND PUBLIC HEALTH vol 45 (2010) PARA 82.

4 'Vessel' includes any ship, boat, lighter, raft, float, float of timber or craft whatsoever however propelled or navigated, and includes also any amphibious craft: Thames Conservancy Act 1932 s 5(1) (substituted by the Thames Conservancy Act 1950 s 4(1)).

5 For the meaning of 'Thames' see PARA 500D.1.

6 Thames Conservancy Act 1932 s 79(1).

7 As to the Environment Agency see ENVIRONMENTAL QUALITY AND PUBLIC HEALTH vol 45 (2010) PARA 68 et seq).

8 Thames Conservancy Act 1932 s 79(1) proviso (amended by virtue of the Environment Act 1995 s 120(1), Sch 22 para 233(1)).

9 See the Thames Conservancy Act 1932 s 78 (amended by virtue of the Environment Act 1995 Sch 22 para 233(1)). Contravention is an offence punishable by a fine not exceeding level 3 on the standard scale: see the Thames Conservancy Act 1932 s 78 (as amended). As to the standard scale see SENTENCING AND DISPOSITION OF OFFENDERS vol 92 (2010) PARA 142.

### **3. Incidental rights to anchor, moor or remain stationary.**

The right of navigation on the Thames<sup>1</sup> includes the right to anchor, moor or remain stationary for a reasonable time in the ordinary course of pleasure navigation, subject to such restrictions as the Environment Agency<sup>2</sup> may make by byelaws<sup>3</sup>. Mooring chains may not be put down in the Thames without a licence from the Agency<sup>4</sup> and may be required to be removed by notice from it<sup>5</sup>. The Agency may charge for the use of moorings belonging to it, but no charge may be made for vessels tied up or moored at night or for a reasonable time when not at work unless the river traffic is thereby impeded<sup>6</sup>.

The Agency has power to make special regulations to prevent annoyance to any occupier of a riparian residence<sup>7</sup> by reason of the loitering or delay of any houseboat or launch<sup>8</sup>; and the riparian owner may exercise any legal remedies he possesses for preventing the anchoring, mooring, loitering or delay of any vessel<sup>9</sup>.

1 ie under the Thames Conservancy Act 1932 s 79(1) (as amended): see PARA 500D.2. For the meaning of 'Thames' see PARA 500D.1.

2 As to the Environment Agency see ENVIRONMENTAL QUALITY AND PUBLIC HEALTH vol 45 (2010) PARA 68 et seq).

3 Thames Conservancy Act 1932 s 79(2) (amended by virtue of the Environment Act 1995 s 120(1), Sch 22 para 233(1)).

4 The penalty for contravention is a sum not exceeding level 3 on the standard scale and a daily penalty, recoverable summarily: Thames Conservancy Act 1932 ss 66(1), 242 (s 66(1) amended by the Thames Conservancy Act 1972 s 22, Schedule; and by virtue of the Criminal Justice Act 1982 ss 38, 46). As to the standard scale see PARA 87 NOTE 6.

5 Thames Conservancy Act 1932 s 66(2) (amended by virtue of the Environment Act 1995 Sch 22 para 233(1)).

6 Thames Conservancy Act 1932 s 136 (amended by the Thames Conservancy Act 1972 s 23; and by virtue of the Environment Act 1995 Sch 22 para 233(1)). As to charges see the Environment Act 1995 s 43; and see generally ENVIRONMENTAL QUALITY AND PUBLIC HEALTH vol 45 (2010) PARA 82.

7 As to 'riparian owners' and 'riparian rights' see WATER AND WATERWAYS vol 100 (2009) PARA 81.

8 Thames Conservancy Act 1932 s 79(2) (as amended: see NOTE 3). No vessel may anchor, moor, fasten or lie in any part of Taplow Mill Stream between the lock and Cleamarch Meadow under a penalty not exceeding level 1 on the standard scale, recoverable summarily: ss 242, 260 (amended by the Thames Conservancy Act 1972 Schedule; and by virtue of the Criminal Justice Act 1982 ss 38, 46).

9 Thames Conservancy Act 1932 s 79(2) proviso.

#### **4. Right to use Environment Agency works.**

All persons have a general right<sup>1</sup>, with horses, cattle or vehicles, to use any roads and ways, except towpaths, belonging to the Environment Agency<sup>2</sup>, and with vessels<sup>3</sup> to use the locks belonging to the Agency and the Thames towpaths for towing such vessels<sup>4</sup>.

1 The right is subject to the Thames Conservancy Acts 1932 to 1972 and to byelaws of the Environment Agency: Thames Conservancy Act 1932 s 77 (amended by virtue of the Environment Act 1995 s 120(1), Sch 22 para 233(1)). As to such byelaws see PARA 500E.12.

2 As to the Environment Agency see ENVIRONMENTAL QUALITY AND PUBLIC HEALTH vol 45 (2010) PARA 68 et seq).

3 As to the meaning of 'vessel' see PARA 500D.2 NOTE 4.

4 Thames Conservancy Act 1932 s 77 (as amended: see NOTE 1).

#### **5. Rules as to navigation of the River Thames.**

Besides complying with any byelaws relating to navigation<sup>1</sup> made by the Environment Agency<sup>2</sup>, every vessel<sup>3</sup> navigating the Thames<sup>4</sup> must be navigated with care and caution and at such a speed and in such a manner as not to endanger the lives of, or cause injury to, persons or endanger the safety of, or cause damage to, other vessels or any mooring, or to the banks of the river or other property<sup>5</sup>. Special care must be used when passing<sup>6</sup> vessels of all kinds, especially those of the smaller classes and such as are employed in dredging or removing sunken vessels or other obstructions<sup>7</sup>.

1 As to the power to make such byelaws see the Thames Conservancy Act 1932 s 233(1).

2 As to the Environment Agency see ENVIRONMENTAL QUALITY AND PUBLIC HEALTH vol 45 (2010) PARA 68 et seq).

3 As to the meaning of 'vessel' see PARA 500D.2 NOTE 4.

4 For the meaning of 'Thames' see PARA 500D.1.

5 Thames Conservancy Act 1932 s 97(1). The penalty on summary conviction for a breach of s 97 (as amended) is a sum not exceeding level 3 on the standard scale: see s 97(4) (as amended), s 242. If any person holding a launch certificate is twice convicted under s 97 (as amended), the certificate ceases to be of any force and it is in the Agency's discretion whether or not it will grant a fresh one: s 97(5) (amended by virtue of the Environment Act 1995 Sch 22 para 233(1)). If the life of any person or the safety of any vessel, mooring, bank or other property is endangered or injury or damage is caused by a passing vessel, the onus lies on the person in charge of her to show that she was navigated in accordance with the Thames Conservancy Act 1932 s 97 (as amended): s 97(3). As to the standard scale see PARA 87 NOTE 6.

6 It has been held that one vessel 'passed' another when the second was stationary, being overtaken or being met bow-to-bow or head on: *Jones v Thomas* [1963] 1 Lloyd's Rep 242, DC.

7 Thames Conservancy Act 1932 s 97(2).



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MISCELLANEOUS PROVISIONS RELATING TO LONDON/500E. Conservation and navigation  
powers of the Environment Agency

## **500E. Conservation and navigation powers of the Environment Agency**

### **1. General powers to carry out works for navigation.**

Subject to the provisions of the Thames Conservancy Acts 1932 to 1972<sup>1</sup>, the Environment Agency<sup>2</sup> may, on its land and on the bed of the Thames<sup>3</sup>, improve and complete the navigation of the Thames<sup>4</sup>. In the exercise of these powers, the Agency may make, erect, maintain, alter, extend, discontinue, remake and re-erect such towpaths<sup>5</sup>, banks, roads, bridges, ferries and ways for the towing of vessels<sup>6</sup> (with horses or otherwise), and such locks, pounds<sup>7</sup>, turnpikes, wharfs, weirs, bucks, sluices, winches, spikes, dams, floodgates, engines, toll-houses and watch-houses for the use of the navigation as it thinks fit<sup>8</sup>.

1 As to these Acts see WATER AND WATERWAYS vol 101 (2009) PARA 712.

2 As to the Environment Agency see ENVIRONMENTAL QUALITY AND PUBLIC HEALTH vol 45 (2010) PARA 68 et seq).

3 For the meaning of 'Thames' for conservancy purposes see PARA 500D.1.

4 Thames Conservancy Act 1932 s 44(a) (s 44 amended by virtue of the Environment Act 1995 s 120(1), Sch 22 para 233(1)).

5 As to the ownership of and public rights on towpaths see *Thames Conservators v Kent* [1918] 2 KB 272, CA.

6 As to the meaning of 'vessel' see PARA 500D.2 NOTE 4.

7 The Agency also has power to supply locks and pounds with water (Thames Conservancy Act 1932 s 44(c) (as amended: see NOTE 4)); and may dig trenches and carry away earth etc for the purpose of making, altering and extending locks and pounds (see s 44(d) (as so amended)).

8 Ibid s 44(b) (as amended: see NOTE 4).

### **2. Removal of sunken, stranded or abandoned vessels.**

The Environment Agency<sup>1</sup> may cause any vessel<sup>2</sup> sunk, stranded or abandoned in the Thames<sup>3</sup> to be raised, removed, blown up or destroyed<sup>4</sup>, and may recover from her owner<sup>5</sup> all expenses incurred in doing so or in raising, removing or storing any cargo, goods, chattels and effects raised or removed from her, or in marking, lighting, watching, buoying or otherwise controlling her<sup>6</sup>. The Agency may, and must if required by the owner, sell<sup>7</sup> the vessel and any effects and may reimburse itself for any expenses and hold any surplus in trust for the persons entitled to it, the owner being responsible for any deficiency<sup>8</sup>.

1 As to the Environment Agency see ENVIRONMENTAL QUALITY AND PUBLIC HEALTH vol 45 (2010) PARA 68 et seq).

2 As to the general meaning of 'vessel' see PARA 500D.2 NOTE 4. It here includes a seaplane or other aircraft (Thames Conservancy Act 1950 s 16(7)); but not any vessel belonging to or in the possession of Her Majesty (s 16(9)).

3 For the meaning of 'Thames' for conservancy purposes see PARA 500D.1.

4 Thames Conservancy Act 1950 s 16(1) (s 16 amended by virtue of the Environment Act 1995 s 120(1), Sch 22 para 233(1)). Before doing so the Agency must, except in urgent cases, give the owner 24 hours' notice of its

intention, and if within 12 hours after the notice expires he gives notice of his intention to raise and remove the vessel he may do so on complying with the Agency's directions for preventing interference with navigation and proceeding with all diligent dispatch: see the Thames Conservancy Act 1950 s 16(4) (as so amended). The Agency may give notice by post or, if the owner is unknown, by exhibiting the notice at its principal office: s 16(6) (as so amended).

5 'Owner' means the owner of the vessel at the time of the sinking etc: *ibid* s 16(7) (amended by the Thames Conservancy Act 1959 s 7).

6 Thames Conservancy Act 1950 s 16(2) (as amended: see NOTE 4). These expenses may be recovered either summarily as a civil debt if they do not exceed £20 or as a debt in any court of competent jurisdiction: s 16(2) (as so amended). See also NOTE 8. As to the power to remove wrecks see SHIPPING AND MARITIME LAW vol 94 (2008) PARA 1008 et seq.

7 Before selling, the Agency must, except in emergency or when required by the owner to sell, give the owner seven days' notice of its intention: *ibid* s 16(5) (as amended: see note 4). As to the giving of notice see NOTE 4.

8 *Ibid* s 16(3) (as amended: see NOTE 4). The deficiency may be recovered in the same manner as expenses under s 16(2) (as amended) (see NOTE 4), even though the owner has abandoned the vessel before the expenses were incurred: *The Annie* (1886) 12 PD 50; *The Wallsend* [1907] P 302. In estimating the expenses the cost of special apparatus used may be taken into account: *The Harrington* (1888) 13 PD 48.

### 3. Removal of obstructions.

The Environment Agency<sup>1</sup> may remove anything<sup>2</sup> causing an obstruction in the Thames<sup>3</sup> or to the proper use of the towpath, and any floating timber which impedes the navigation, and may recover the expense from the owner summarily as a civil debt<sup>4</sup> or as a debt in a court of competent jurisdiction<sup>5</sup>.

If the navigation or the proper use of any towpath is obstructed by any tree, bush, shrub or projection, the Agency may apply to a magistrates' court for an order requiring the owner or occupier of the land concerned to remove the obstruction<sup>6</sup>, and if he defaults the Agency may remove it and recover its expenses of doing so from him<sup>7</sup>.

1 As to the Environment Agency see ENVIRONMENTAL QUALITY AND PUBLIC HEALTH vol 45 (2010) PARA 68 et seq).

2 This does not apply to a bridge or other works constructed under statutory powers: see the Thames Conservancy Act 1932 s 104(4).

3 For the meaning of 'Thames' for conservancy purposes see PARA 500D.1.

4 As to civil debt procedure see MAGISTRATES.

5 Thames Conservancy Act 1932 s 104(1) (s 104 amended by virtue of the Environment Act 1995 s 120(1), Sch 22 para 233(1)). The Agency may detain the obstruction for securing reimbursement of its expenses: see s 104(2), (3) (as so amended). This provision does not impose a duty on the Agency to clear obstructions, but merely confers a power to do so. At common law the Agency's duty is only to take care that the part of the river ordinarily used for navigation is safe, and it will not be liable for an obstruction or danger of which it neither knew nor ought to have known: see *Gridley v Thames Conservators* (1886) 3 TLR 108, CA, per Lord Esher MR. See also *Forbes v Lee Conservancy Board* (1879) 4 Ex D 116; *Queens of the River Steamship Co Ltd v Easton, Gibb & Co and River Thames Conservators* (1907) 96 LT 901, CA; *William Stevens & Sons v Thames Conservators* [1958] 1 Lloyd's Rep 401.

6 See the Thames Conservancy Act 1932 s 105(1) (s 105 amended by virtue of the Environment Act 1995 Sch 22 para 233(1)).

7 See the Thames Conservancy Act 1932 s 105(2) (as amended: see NOTE 6). In addition the owner or occupier is liable to a summary penalty for each day during which the order is not complied with: see s 105(2) (as amended), s 242.

### 4. Repair or removal of dangerous works.

When any wharf<sup>1</sup>, pier<sup>2</sup> or artificial bank<sup>3</sup> is out of repair or insecure so as to be dangerous to any person passing along the Thames<sup>4</sup> or to vessels<sup>5</sup> moored alongside or passing by, or is injurious to the Thames or to its free navigation, the Environment Agency<sup>6</sup> may by notice<sup>7</sup> require the owner or occupier to repair it to the satisfaction of its engineer<sup>8</sup>. If the owner or occupier fails to do so the Agency may do the work and recover the expenses summarily as a civil debt<sup>9</sup> or in any court of competent jurisdiction<sup>10</sup>. The Agency may also remove at the cost of the owner or occupier broken, dangerous or useless piles, mooring chains or other nuisances, and remove or shorten any waterways, causeways, stairs or other projections injurious to navigation<sup>11</sup>.

1 'Wharf' includes any wall and building adjoining the Thames: Thames Conservancy Act 1932 s 5(1).

2 'Pier' includes any floating pier and any jetty: *ibid* s 5(1).

3 A bank is not deemed to be artificial merely because its owner or occupier has constructed works to protect it: *ibid* s 106(3).

4 For the meaning of 'Thames' for conservancy purposes see PARA 500D.1.

5 As to the meaning of 'vessel' see PARA 500D.2 NOTE 4.

6 As to the Environment Agency see ENVIRONMENTAL QUALITY AND PUBLIC HEALTH vol 45 (2010) PARA 68 et seq).

7 The notice must be in writing and must be given to the owner or occupier or, if he cannot be found, affixed to the site: Thames Conservancy Act 1932 s 106(1) (amended by virtue of the Environment Act 1995 s 120(1), Sch 22 para 233(1)).

8 Thames Conservancy Act 1932 s 106(1) (as amended: see NOTE 7).

9 As to civil debt procedure see MAGISTRATES.

10 See the Thames Conservancy Act 1932 s 106(2) (as amended). An owner or occupier who fails to carry out the work is also liable to a summary penalty not exceeding level 3 on the standard scale and a daily penalty: see s 106(2) (as amended), s 242. As to the standard scale see PARA 87 NOTE 6.

11 See *ibid* s 107 (amended by virtue of the Environment Act 1995 Sch 22 para 233(1)). The Agency may recover its expenses from the owner or occupier: Thames Conservancy Act 1932 s 107 (as so amended). However, except in case of emergency, it may not exercise its power under this provision above the City Stone above Staines Bridge unless the owner or occupier has failed to do the work after receiving seven days' written notice of the Agency's intentions: s 107 proviso (as so amended).

## 5. Powers for dredging etc.

For the purpose of maintaining and improving the navigation and keeping it free from obstruction, the Environment Agency<sup>1</sup> may:

- 665 (1) dredge, cleanse and scour the Thames<sup>2</sup>;
- 666 (2) alter, deepen, restrict, enlarge, widen, diminish, lengthen, shorten, straighten and improve the bed and channel<sup>3</sup>;
- 667 (3) reduce or remove any shoals, shelves, banks or other accumulations in the Thames<sup>4</sup>; and
- 668 (4) abate or remove all obstructions and all nuisances and abuses in the Thames or on its banks or shores<sup>5</sup>.

For the purposes of making, altering, repairing and maintaining towpaths and roads and straightening and improving the course of the Thames by filling up and raising creeks, inlets, bends, flats and sloblands in or adjoining the river, and constructing, altering, repairing and maintaining works executed or to be executed by or for the Agency or belonging to it, the Agency may dredge and raise gravel, sand, and other substances<sup>6</sup>, and licence persons to do

so<sup>7</sup>. The Agency may also dredge and raise from the Thames below Teddington Lock ballast for ships<sup>8</sup>, and may undertake to supply ships with ballast<sup>9</sup>, or to ballast or unballast them<sup>10</sup>, and may carry away, deposit, sell or otherwise dispose of any gravel, sand, ballast or other substances raised by it<sup>11</sup> and not required for the purpose for which it was so raised<sup>12</sup>.

For the purpose of improving the navigation or flow of water the Agency may remove, scour and take away any shoal, mud bank or other accumulation in the Thames, and shorten any bend or remove any angle in its course<sup>13</sup>.

1 As to the Environment Agency see ENVIRONMENTAL QUALITY AND PUBLIC HEALTH vol 45 (2010) PARA 68 et seq).

2 Thames Conservancy Act 1932 s 49(1)(a) (s 49 amended by virtue of the Environment Act 1995 s 120(1), Sch 22 para 233(1)).

3 Thames Conservancy Act 1932 s 49(1)(b) (as amended: see NOTE 2).

4 Ibid s 49(1)(c) (as amended: see NOTE 2).

5 Ibid s 49(1)(d) (as amended: see NOTE 2). 'Shores' means the shores of the Thames so far as the tide flows and reflows between high- and low-water mark at ordinary tides: s 5(1).

6 Ibid s 49(2) (as amended: see note 2). However, material dredged above the City Stone above Staines Bridge must be used above that stone: s 49(2) proviso (as so amended).

7 See ibid s 59(1) (amended by virtue of the Environment Act 1995 Sch 22 para 233(1)). Dredging without a licence is an offence: see the Thames Conservancy Act 1932 s 59(2). The Agency has no power to license persons to dredge ballast for sale: *Palmer v Thames Conservators* [1902] 1 Ch 163.

8 Thames Conservancy Act 1932 s 49(3) (as amended: see NOTE 2).

9 Ibid s 49(5) (as amended: see NOTE 2).

10 Ibid s 49(6) (as amended: see NOTE 2).

11 Ie under ibid s 49 (as amended).

12 Ibid s 49(4) (as amended: see NOTE 2).

13 Ibid s 50 (amended by virtue of the Environment Act 1995 Sch 22 para 233(1)). For this purpose it may enter into agreements with adjoining landowners: see the Thames Conservancy Act 1932 s 50 (as so amended).

## 6. Mooring chains, piers and landing places.

The Environment Agency<sup>1</sup> may put down, place and maintain mooring chains in the Thames<sup>2</sup> and remove on making compensation any private mooring chains in the river below Teddington Lock<sup>3</sup>.

The Agency may also erect such piers and landing places below Teddington Lock as it deems most advantageous to the public and causing the least obstruction to the navigation, and it may alter any such piers or landing places, and may remove or close them, without being obliged to erect or provide others in their place<sup>4</sup>.

1 As to the Environment Agency see ENVIRONMENTAL QUALITY AND PUBLIC HEALTH vol 45 (2010) PARA 68 et seq).

2 Thames Conservancy Act 1932 s 53 (amended by virtue of the Environment Act 1995 s 120(1), Sch 22 para 233(1)).

3 See the Thames Conservancy Act 1932 s 54 (amended by virtue of the Environment Act 1995 Sch 22 para 233(1)).

4 Thames Conservancy Act 1932 s 55 (amended by virtue of the Environment Act 1995 Sch 22 para 233(1)).

## 7. Licensing of works.

Any person who without a licence<sup>1</sup> from the Environment Agency<sup>2</sup>:

- 669 (1) makes or forms any recess, dock, bed for boats or barges, basin, pier<sup>3</sup>, jetty, landing place, wharf<sup>4</sup>, bank, dwarf wharfing, way, quay or embankment, wall or other work or drives any piles or does any stone pitching in or upon the bed or shores<sup>5</sup> of the Thames<sup>6</sup>; or
- 670 (2) erects, establishes or uses any stage, crane, apparatus or other machinery in or upon the bed or shores of, or afloat in, the Thames below Teddington Lock for the unloading or discharging of vessels<sup>7</sup>,

is liable to a penalty<sup>8</sup>. Unlicensed works may be removed by the Agency after giving seven days' written notice to the owner of the works<sup>9</sup>.

Mooring chains may not be put down or placed in the Thames without the Agency's licence<sup>10</sup>.

1 This licence will not legalise any injury to the rights of others: *Lawes v Turner and Frere* (1892) 8 TLR 584. As to the exercise of similar powers by the Port of London Authority see *R v Port of London Authority, ex p Kynoch Ltd* [1919] 1 KB 176, CA.

2 As to the Environment Agency see ENVIRONMENTAL QUALITY AND PUBLIC HEALTH vol 45 (2010) PARA 68 et seq).

3 For the meaning of 'pier' see PARA 500E.4 NOTE 2.

4 For the meaning of 'wharf' see PARA 500E.4 NOTE 1.

5 For the meaning of 'shores' see PARA 500E.5 NOTE 5.

6 Thames Conservancy Act 1932 s 65(1)(a). As to the Agency's power to grant to any riparian owner or occupier a licence to carry out such works for a reasonable consideration upon such terms as it thinks proper see s 60 (as amended); and *John Bushnell Ltd v Environment Agency (Thames Region)* [2001] EWCA Civ 517, [2001] All ER (D) 339 (Mar). As to riparian owners and occupiers see WATER AND WATERWAYS vol 100 (2009) PARA 81

7 Thames Conservancy Act 1932 s 65(1)(b). As to the meaning of 'vessel' see PARA 500D.2 NOTE 4. As to the Agency's power to grant a licence to erect stages, cranes etc below Teddington Lock for a reasonable rent and upon such terms as it thinks proper see s 61 (as amended). Works below Teddington Lock must be approved by the Secretary of State: see ss 69-71 (as amended). The consideration for licences for certain works below Teddington Lock must be approved by a competent person appointed by the Agency and approved by the Crown Estate Commissioners: s 62 (amended by virtue of the Crown Estate Act 1961 ss 1, 9(3), Sch 2 para 4(1); the Interpretation Act 1978 s 5, Sch 1; and the Environment Act 1995 Sch 22 para 233(1)).

8 The penalty on summary conviction is a fine not exceeding level 3 on the standard scale with a daily penalty: see the Thames Conservancy Act 1932 s 65(2) (as amended), s 242. Section 65 (as amended) does not apply to any work or thing constructed or provided under statutory authority (s 65(3)); and none of the provisions as to licences applies to or affects works or powers of executing, altering or maintaining works authorised or conferred by statute before 17 August 1894 (s 68). As to the standard scale see SENTENCING AND DISPOSITION OF OFFENDERS vol 92 (2010) PARA 142.

9 See *ibid* s 67 (as amended). As to notices see PARA 500E.4 NOTE 7.

10 See *ibid* s 66(1) (as amended). The penalty on summary conviction is a fine not exceeding level 3 on the standard scale with a daily penalty: see s 66(1) (as amended), s 242. The Agency may require licensed mooring chains to be removed on one week's notice: see s 66(2) (as amended).

## 8. Licence to cut banks.

The Environment Agency<sup>1</sup> and any person with and in accordance with a licence from the Agency<sup>2</sup> and, in the case of any person other than the owner of the soil, with the consent of such owner, may cut the banks of the Thames<sup>3</sup> for the purpose of (1) making, enlarging or



repairing any dock, canal, drain, sewer or watercourse<sup>4</sup>; (2) altering, laying down or repairing any suction or other pipe<sup>5</sup>; or (3) any other purpose<sup>6</sup>. It is unlawful for any person other than the Agency to cut the banks where the navigation or use of a towpath for towing purposes will be interfered with for any of the above purposes except in accordance with a licence<sup>7</sup>.

1 As to the Environment Agency see ENVIRONMENTAL QUALITY AND PUBLIC HEALTH vol 45 (2010) PARA 68 et seq).

2 A licence may not be unreasonably withheld where a local authority executes or carries out any works: Thames Conservancy Act 1932 s 64(3).

3 For the meaning of 'Thames' for conservancy purposes see PARA 500D.1.

4 Thames Conservancy Act 1932 s 64(1)(a) (s 64 amended by virtue of the Environment Act 1995 s 120(1), Sch 22 para 233(1)).

5 Thames Conservancy Act 1932 s 64(1)(b) (as amended: see NOTE 4).

6 Ibid s 64(1)(c) (as amended: see NOTE 4).

7 Ibid s 64(1) (as amended: see NOTE 4). Without prejudice to any other remedy or proceeding, contravention is an offence punishable on summary conviction with a penalty not exceeding level 3 on the standard scale and a daily penalty: see s 64(2) (as amended), s 242. As to the standard scale see SENTENCING AND DISPOSITION OF OFFENDERS vol 92 (2010) PARA 142.

## 9. Lights interfering with navigation.

The Environment Agency<sup>1</sup> may by notice require the alteration, removal or screening of any light on or near the Thames below Teddington Lock which it thinks is calculated to mislead persons navigating the river there or to interfere with the safe navigation of vessels<sup>2</sup> there<sup>3</sup>.

1 As to the Environment Agency see ENVIRONMENTAL QUALITY AND PUBLIC HEALTH vol 45 (2010) PARA 68 et seq).

2 As to the meaning of 'vessel' see PARA 500D.2 NOTE 4.

3 Thames Conservancy Act 1932 s 89(1) (amended by virtue of the Environment Act 1995 s 120(1), Sch 22 para 233(1)). Failure to comply with the notice is an offence punishable on summary conviction with a penalty not exceeding level 3 on the standard scale and a daily penalty: see the Thames Conservancy Act 1932 s 89(2) (as amended), s 242. As to the standard scale see SENTENCING AND DISPOSITION OF OFFENDERS vol 92 (2010) PARA 142.

## 10. Offences where towpath or navigation obstructed.

Any person commits an offence who, without lawful excuse, in a reasonable time after written notice from the Environment Agency<sup>1</sup> fails to remove any obstruction to the towpath of the Thames<sup>2</sup>. It is also an offence for any person to obstruct the navigation by means of any weir, bridge, piles, dam, chain, barrier or other impediment after notice from the Agency to remove it<sup>3</sup>.

1 As to the Environment Agency see ENVIRONMENTAL QUALITY AND PUBLIC HEALTH vol 45 (2010) PARA 68 et seq).

2 See the Thames Conservancy Act 1932 s 108 (as amended). An offender is liable on summary conviction to a penalty not exceeding level 1 on the standard scale and a daily penalty: see s 108 (as amended), s 242. As to the standard scale see SENTENCING AND DISPOSITION OF OFFENDERS vol 92 (2010) PARA 142. As to the Agency's power to remove obstructions see PARA 500E.3.

3 See ibid s 79(3) (as amended). This does not apply to obstructions which existed for 20 years before 14 August 1885: see s 79(3) (as amended). The penalty on summary conviction is a fine not exceeding level 3 on the standard scale and a daily penalty for every day the obstruction remains after notice from the Agency: s 79(3) (as amended), s 242. As to notices see PARA 500E.4 NOTE 7.

## 11. Power to appoint harbourmaster.

The Environment Agency<sup>1</sup> may appoint a harbourmaster<sup>2</sup>, who has power to regulate the time and manner in which a vessel<sup>3</sup> may enter into, go out of or lie in the Thames<sup>4</sup>, her position whilst there and the manner in which she takes in or discharges cargo or ballast<sup>5</sup>. The harbourmaster may remove any vessel disobeying his orders<sup>6</sup>.

1 As to the Environment Agency see ENVIRONMENTAL QUALITY AND PUBLIC HEALTH vol 45 (2010) PARA 68 et seq).

2 Harbours, Docks, and Piers Clauses Act 1847 s 51 (applied by the Thames Conservancy Act 1932 s 81 (amended by virtue of the Environment Act 1995 s 120(1), Sch 22 para 233(1)). Assistant harbourmasters may also be appointed: see the Thames Conservancy Act 1932 s 82 (as amended).

3 As to the meaning of 'vessel' see PARA 500D.2 NOTE 4.

4 For the meaning of 'Thames' for conservancy purposes see PARA 500D.1.

5 Thames Conservancy Act 1932 s 83. The master of a vessel must regulate his vessel in accordance with the harbourmaster's directions: see s 84 (as amended). Disobedience is punishable on summary conviction by a penalty not exceeding level 1 on the standard scale: see s 84 (as amended), s 242. As to the standard scale see SENTENCING AND DISPOSITION OF OFFENDERS vol 92 (2010) PARA 142.

6 See *ibid* s 85. As to his powers to unloose or slacken mooring ropes see s 86.

## 12. Byelaws.

The Environment Agency<sup>1</sup> may make byelaws<sup>2</sup> for, among other things:

- 671 (1) the regulation, management and improvement of the Thames<sup>3</sup> and the navigation;
- 672 (2) the prevention of obstruction in the Thames;
- 673 (3) compelling vessels<sup>4</sup> to exhibit lights at night;
- 674 (4) the government, good order and regulation of persons navigating the Thames or using its towpaths, piers<sup>5</sup>, landing places or locks;
- 675 (5) the passage of vessels through locks;
- 676 (6) the passage into the Thames of sewage or other offensive or injurious matter;
- 677 (7) the regulation of bathing;
- 678 (8) preventing offences against decency, disorderly conduct or the use of obscene or offensive language to the annoyance of others;
- 679 (9) preventing nuisance to riparian residents or others by river users<sup>6</sup>;
- 680 (10) regulating the navigation with a view to the safety and amenity of the Thames;
- 681 (11) the protection of flora and fauna;
- 682 (12) preventing disturbance of the navigation of the Thames for purposes of recreation;
- 683 (13) regulating advertising on the Thames;
- 684 (14) registering and licensing launches<sup>7</sup>;
- 685 (15) licensing vessels used on the Thames above Teddington Lock;
- 686 (16) protecting, preserving and regulating fisheries;
- 687 (17) registering and regulating boats used or let for fishing;
- 688 (18) regulating the passage of vessels on occasions when large crowds may assemble<sup>8</sup>;
- 689 (19) preventing overcrowding of small craft on the Thames above Teddington Lock<sup>9</sup>;

690 (20) prohibiting the use of a towpath on which there is no public right of way for vehicles by horses, cars, motor cycles or other vehicles, subject to the rights of riparian owners<sup>10</sup>;

691 (21) imposing penalties for breach of the byelaws<sup>11</sup>.

1 As to the Environment Agency see ENVIRONMENTAL QUALITY AND PUBLIC HEALTH vol 45 (2010) PARA 68 et seq).

2 For the procedure on making the byelaws see the Water Resources Act 1991 s 210, Sch 25 para 3, Sch 26 (as amended); and WATER AND WATERWAYS vol 101 (2009) PARA 685.

3 For the meaning of 'Thames' for conservancy purposes see PARA 500D.1.

4 As to the meaning of 'vessel' see PARA 500D.2 NOTE 4.

5 For the meaning of 'pier' see PARA 500E.4 NOTE 2.

6 As to riparian owners and occupiers see WATER AND WATERWAYS vol 100 (2009) PARA 81.

7 As to the licensing of pleasure boats see WATER AND WATERWAYS vol 101 (2009) PARA 684. As to lights which must be displayed by launches at night see the Thames Conservancy Act 1932 s 92 (as amended).

8 The Commissioner of the Metropolitan Police may give orders for the purpose of regulating the passage of vessels on the Thames within his jurisdiction for the purpose of maintaining order and securing public safety on any occasion when large crowds may assemble: *ibid* s 99(1). Disobedience is an offence punishable by a fine not exceeding level 3 on the standard scale: see s 99(2) (as amended). As to the standard scale see SENTENCING AND DISPOSITION OF OFFENDERS vol 92 (2010) PARA 142.

9 *Ibid* s 233(1) (s 233 amended by virtue of the Environment Act 1995 s 120(1), Sch 22 para 233(1)).

10 See the Thames Conservancy Act 1932 s 233(2) (as amended: see NOTE 9). In *Thames Conservators v Kent* [1918] 2 KB 272, CA, a byelaw prohibiting riding or driving along parts of a towpath not vested in (now) the Agency where those acts neither damaged the towpath nor interfered with navigation was held to be ultra vires.

11 See the Thames Conservancy Act 1932 s 234 (as amended). The penalty which may be imposed on summary conviction is a penalty not exceeding level 3 on the standard scale and a daily penalty: s 234 (as amended), s 242.